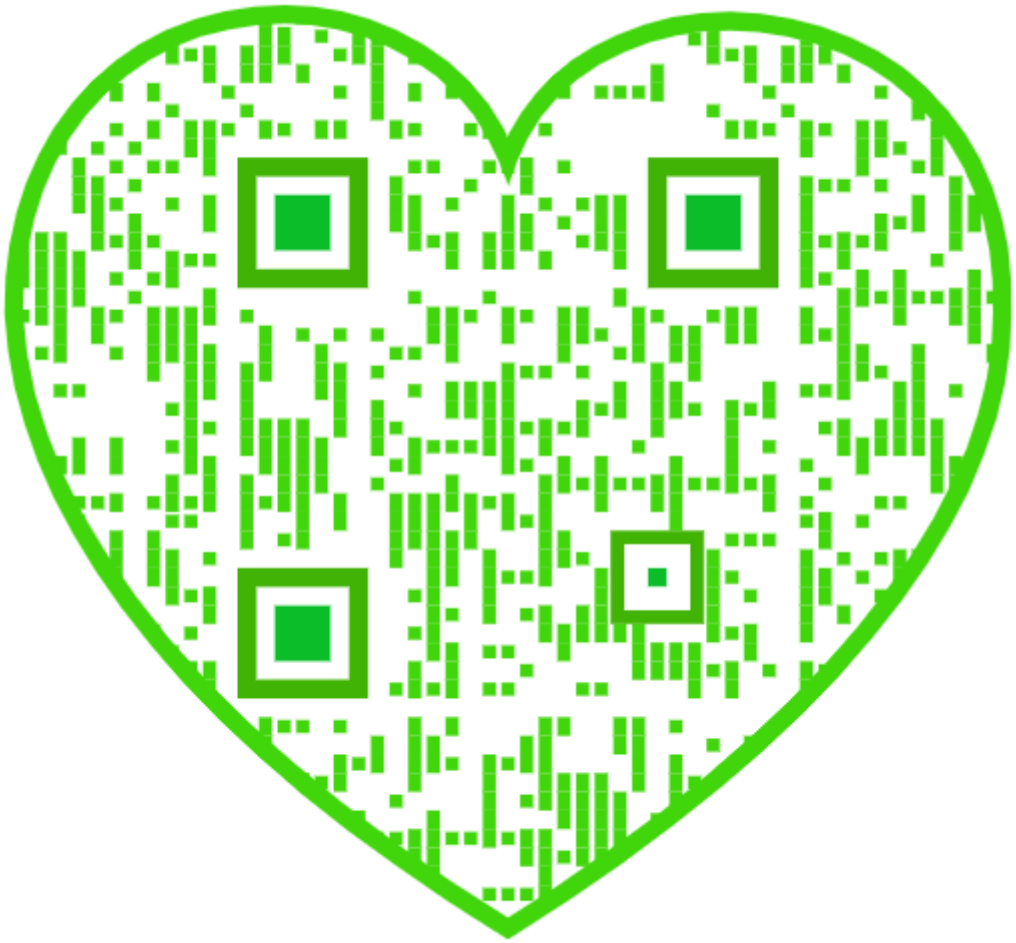

61st Congress, 2d Session | SENATE | Document No. 582

NATIONAL MONETARY COMMISSION

The Origin of the National Banking System

BY

ANDREW McFARLAND DAVIS

Washington : Government Printing Office : 1910

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PREFACE.

Salmon Portland Chase, through whose insistence the national banking act was passed, was a lawyer by profession, who had drifted into politics and had held the positions of governor of Ohio and of United States Senator. In no part of his career had there been any such touch with financial affairs as would have justified his selection as Secretary of the Treasury at this critical period of the nation's affairs, if a supposed familiarity with finance had been the basis of his appointment. In the study of the evolution of the national banking system which follows, frequent quotations are made from his reports to Congress, and no person can read them without being impressed with the force of his arguments and the lucidity of his mode of expression. Forced by circumstances to resort to Treasury notes to meet current obligations, he was following in this respect in the footsteps of his predecessors, who had at various times made use temporarily of short-time interest-bearing notes. The constitutionality of these emissions had been repeatedly questioned, but the practice, so far as it applied to interest-bearing securities in this form, was well settled. It was something of an innovation to emit noninterest-bearing notes which might serve as currency. Experience had demonstrated the danger which accompanied the emission by a government of notes which should serve as currency, and in reports made by Mr. Chase he set forth with great clearness the peril to the nation which accompanied his

action in thus availing himself of a simple and, to a certain extent, an advantageous method of adjusting the government debts. Whether his knowledge of the danger which was inherent in this action was derived from the example of France in the time of Law's Mississippi Bubble; from the continental bills of the confederated colonies; from the assignats of the French Republic, or from some of the more modern experiences in Europe, does not appear. It is not probable that he could have known much about the experiences in the American colonies in the eighteenth century, which furnish an object lesson to economists upon this subject, but concerning the details of which very little was known at the time when he wrote these reports. One very striking argument that he makes shows how thoroughly he covered the ground, and an examination of what took place in Massachusetts in the first half of the eighteenth century discloses that it was well founded. He says in his report in 1862, " A government issuing a credit circulation can not supply, in any given period, an amount of currency greater than the excess of its disbursements over its receipts." He then goes on to say that if the receipts exceed the expenditures, "There is then no mode in which a currency in United States notes can be permanently maintained except by loans of them, when not required for disbursement on deposits of coin, or pledge of securities, or in some other way. This would convert the Treasury into a government bank, with all its hazards and mischief."

During the emissions of bills of public credit by the Province of Massachusetts Bay, in the first half of the

eighteenth century, a somewhat similar condition of affairs prevailed. There was not, it is true, a plethora of receipts in the treasury, but there was a rise in prices owing to excessive emissions, and the reduction in the purchasing power of the bills resulting therefrom created an impression of a shortage of the circulating medium. To meet this, loans were resorted to, and to prevent a scarcity of the currency when these loans became due and large payments to the Government were therefore to be made, other loans were effected. Thus the Province was for many years a lender of its credit. In the technology of the day, these loans were termed "banks."

With these few words of appreciation for the masterly treatment by Mr. Chase of the subject of a uniform national currency to be furnished by national banks in preference to the Government itself, I submit the study upon the subject of the evolution of the banks.

The material upon which this research rests was collected at my request and under my supervision by Mr. Clyde O. Ruggles. I owe to him acknowledgment for the intelligent manner in which he carried out my instructions, following to their end on his own motion clews which suggested themselves to him while making the investigation along lines originally directed by me. The papers of George Harrington must have contained much that was of interest bearing on the questions subject to our consideration. We have but little knowledge of what took place in the interviews that Mr. Chase had with the bankers of New York, and to the papers of men in the department at that time we should naturally look

for light on these hidden affairs. Mr. William K. Bixby, of St. Louis, has a collection of Mr. Harrington's papers, which he generously forwarded to me for my inspection. Unfortunately they contained nothing of importance on this subject. Searches were also made at my request at the Treasury Department for any papers left by either Harrington or Jordan. The latter search brought to light some papers of interest relating to the amendatory act, but nothing touching the original bill.

The correspondence of Mr. Chase is scattered, and the gaps in the dates show that much has disappeared. What is left is to be found in the Pennsylvania Historical Society and the Library of Congress. A few official letters remain in the Treasury Department. Access to these papers has been freely granted to me. For the analysis of the material collated as above I alone am responsible.

ANDREW MCFARLAND DAVIS.

CAMBRIDGE, *March 26, 1910.*

THE ORIGIN OF THE NATIONAL BANKING SYSTEM.

THE FIELD OF INVESTIGATION.

The origin of the national banking system is probably to be found in the germ from which sprang the establishment, in 1838, in the State of New York, of a set of local banks, having the power to emit a currency secured by the deposit of State bonds. The success of this plan suggested that a uniform national currency might in the same way be provided through the emissions of special associations, which should secure their notes by the pledge of government securities.

The desire to make use of the New York experience in national affairs must be looked for in the mental operations of the man then in charge of the Treasury Department, through whose insistence it became possible to secure the passage, as a war measure, of the law through which the national banks came into being, even though the act did not have the hearty support of Congress. If we seek to trace the opinions of Salmon P. Chase on this subject, prior to and during the years of trial and responsibility in which the national banking system was being evolved, we must have recourse to his speeches, to his official reports, and to his correspondence. To comprehend the causes which induced him to act, we must take into consideration the condition of the currency upon which our people were then dependent for a medium of trade. To give him full credit for his final determination, we must examine the possible solutions of the problem which were called to his attention and we must fairly consider the various plans and schemes for relief

which were submitted to him, whether in the light of later experience these rejected propositions seem reasonable or not. We must also give due credit to the opinions of those who aided in bringing into shape the bill which was submitted to Congress, nor can we neglect the motives which influenced those who contributed toward securing the passage of the banking legislation which was finally effected, whether their efforts were put forth within or without that body. A review of the conditions of the times, the needs of the Government and the personal influences brought to bear upon the Secretary of the Treasury during the years 1861 and 1862 will put us severally in position to determine whether we shall conclude that the adoption of a banking system similar to the one then in vogue in the State of New York was to be credited to the suggestion of any one person, or to the resultant pressure of circumstances guided and controlled by a strong will.

We must, of course, take into account the rapidly changing financial condition of the country while the bill was under consideration, and it may appear that motives predominant at one stage of affairs necessarily became of less importance at a later period. If such should prove to be the case, it will help to explain why different writers have with apparent good reasons reached different conclusions as to the prevailing motive for the adoption of the national banking system. If we follow the matter to the passage of the banking act in 1864, when the system assumed the form which it has practically preserved until the present time, we shall realize that a powerful

opposition inspired timidity and retarded progress, so that measures essential for success were impeded until patriotism rallied to their support and demanded their passage.

EARLY SUGGESTIONS OF A NATIONAL CURRENCY.

The first proposition on record which can be quoted as suggestive of a national banking system other than that of a central national bank was made as early as 1815. A Frenchman, traveling in this country from South to North, experienced loss and discomfort from the depreciation of the bank notes into which he had converted his funds. He found that these conditions increased as he journeyed farther and farther from the place where the notes were emitted. His trials furnished the foundation for an article which was published in Philadelphia in the Analectic Magazine, in which article relief was suggested for this state of affairs, through a uniform currency, which might be based upon United States stocks, the use of which for this purpose would, as the writer of the article phrased it, give "a new prop to the security" of these stocks, by which he probably meant that their market value would be correspondingly increased with this additional use. This article was signed W., and fifty years later, a contributor to the Historical Magazine[a] rescued it from the oblivion of the pages of the Analectic Magazine and republished it with the comment that twenty-three years after its appearance, New York adopted the plan, and that when the national banking system was created, substantially the same arguments were used. W's proposition was that in the absence

[a] Historical Magazine, August, 1865, Vol. IX, pp. 253–256.

of specie the public funds might serve, "as the basis and support, and limit of paper currency." If the banks did not have coin, his idea was that they should be compelled to redeem their notes in Government 6 per cent stocks at par. This could be brought about by the establishment of a central national bank on this plan. Other banks would necessarily follow the example.

In 1847 Millard Fillmore was elected comptroller of the State of New York. He had previous to this served several terms in Congress. During his congressional term the question of a national bank had come under consideration. He took no part at that time in the discussion of the subject, but while comptroller of the State of New York, he suggested in his report January 1, 1849, that a national bank, with the stocks of the United States as the sole basis upon which to issue its currency, might prove a great convenience to the Government with entire safety to the people. While this proposition apparently involved the idea of a secured currency to be emitted by a single central bank, it at any rate contemplated the use of United States bonds as the basis for a circulating medium.

This fact was brought out by a contributor to the Bankers' Magazine in December, 1861, who signed himself L. Bonnefoux, and who styled himself "Originator of the New York State Stock Security Bank in 1838."[a] A second article by the same writer, published in February, 1862, in the same magazine,[b] was entitled "Outline of a plan to create a national currency, based on the pledge of certifi-

[a] Bankers' Magazine, Vol. XI (new series), p. 417; see especially pp. 433, 434, 443, and 450.

[b] Bankers' Magazine, Vol. XI (new series), pp. 589–597.

cates of a special loan issued by the United States and guaranteed by a branch of the public revenue set aside as a sinking fund." The author regarded it as self-evident that the adoption of such a currency would render the Government independent of foreign capitalists. Such a national currency would connect the people, the state banking institutions, and the National Government in a common bond. This article was in the form of a letter dated Paris, November 19, 1861.

February 14, 1838, some person who signed himself "J. B. C." printed an article on the subject of the currency in the New Bedford Mercury, and forwarded the same in the form of a circular to the leading men of the country. The writer knew nothing of the plan suggested in the Analectic Magazine. He proposed that one-fifth part of the capital stock of every bank should be loaned to the State at an interest of 6 per cent, and that every bank should be allowed to issue bills to the amount of the loan made to the State. The original article remained in comparative obscurity, but in August, 1865, the author republished his circular in the Historical Magazine.

The financial experiences of 1837 disclosed the defects of the safety fund banking act of New York and brought about the passage of the free banking act in 1838. This introduced a new element into the banking systems of the country. Security for the circulation and inspection of the condition of the banks added greatly to the confidence of the community in the notes of such banks as were incorporated under this system or under analogous laws, wherever the conditions imposed were honestly enforced.

Professor Dunbar,[a] in one of his essays, says: "The free banking system with provision for a bond-secured note issue was followed in other States in such rapid succession in the later fifties as to suggest the probability that had not the normal course of development been interrupted the system might have become general." The following States had prior to 1860 passed free banking laws: Vermont, Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, Tennessee, Florida, Louisiana, Ohio, Indiana, Illinois, Wisconsin, and Iowa.

THE CIRCULATING MEDIUM IN 1860.

The notes of the New York banks, where the provisions of the New York free banking act were rigidly enforced, were favorably received, even beyond the region where details concerning their management were known. This was also true of the stronger of the Massachusetts banks where a system of redemption prevailed, the New England country banks being compelled to maintain in Boston, with the Suffolk Bank or the Mutual Redemption Bank, a deposit for that purpose, which deposit was counted in their reserves in the statements that they were required by law to furnish. The strong banks of the East were the only banks in the country whose bills had more than what might be termed a mere local credit, and the question of finding some convenient medium with which a traveler could meet his current expenses was troublesome and its solution a source of expense. The country was nominally on a specie basis, but the actual amount of gold in circula-

[a] Economic Essays, by Dunbar. Edited by O. M. W. Sprague, p. 322.

tion was insignificant. In any event it was almost impracticable for a traveler to carry with him the coin necessary to meet his expenses for a protracted journey, and except coin there was nothing that was universally acceptable. The percentage of notes of doubtful value which were in circulation in the Western States was so great that the knowledge of an expert was required at every turn to determine what to receive and what to reject.

A writer in the National Intelligencer of February 4, 1863, thus describes the situation: "Heretofore, although one nation, bound together by the ties of consanguinity, of a common language and an interstate and international commerce, we have been separated by diverse systems of currency, bounded by the state lines, and as widely variant as those which mark the alien and often hostile principalities and powers of Europe. London and Munich, Paris and St. Petersburgh are not more inaccessible to each other, except by the financial bridge of exchange, than are New York, St. Louis, Boston, and Chicago."

The Independent, January 15, 1863, speaking of the great load that was imposed upon our merchants by this internal exchange, said of a uniform currency, that "if adopted, millions of dollars, it is truthfully alleged, will be saved in the way of exchange, which for years past has been an enormous tax on the whole community."

TRAVEL IN THE INTERIOR DIFFICULT.

There appeared in Hunt's Merchants' Magazine for January, 1863,[a] an article "By a Western Banker"

[a] Published separately in pamphlet form under title of "A Uniform National Currency."

(J. J. K.), presumably John Jay Knox, who was afterwards Comptroller of the Currency, in which the evils of the situation were portrayed in the following picturesque language: "A foreigner or stranger traveling through the country, at the hotel, in the railroad car, on the river or lake, by friend and foe, has offered to him in exchange for gold slips of engraved paper similar in size, but as often worthless in value, (*sic*) as equal the sum they represent and promise to pay." "In the West the people have suffered for years from the issues of almost every State in the Union, much of which is so irredeemable, so insecure, and so unpopular as to be known by opprobrious names rather than the money it pretends to represent. There the frequently worthless issues of the State of Maine and of other New England States, the shinplasters of Michigan, the wild cats of Georgia, of Canada, and Pennsylvania, the red dogs of Indiana and Nebraska, the miserably engraved notes of North Carolina, Kentucky, Missouri, and Virginia, and the not-to-be-forgotten stumptails of Illinois and Wisconsin are mixed indiscriminately with the par currency of New York and Boston, until no one can wonder that the West has become disgusted with all bank issues and almost unanimously demand that such a currency shall be taxed out of existence, and give place to a uniform national currency."

Senator Sherman in a speech in the Senate in February, 1863, quoted from a recent article in the "London Times" the following estimate of the condition of our currency:[a]

[a] Congressional Globe, February 10, 1863, p. 842.

"By the want of a paper currency that would be taken in every State of the Union at its nominal value the Americans have suffered severely. The different States were as to their bank notes so many foreign nations each refusing the paper of the other, except at continually varying rates of discount. Frequently there was a greater loss on paper taken or sent from an eastern to a western State than on English bank notes converted into Austrian money in Vienna. Only adepts and regular money changers could tell whether a note was current or not, the paper of broken or suspended banks remaining in circulation long after their value had departed. The Federal Government avoided loss by refusing all paper money of every kind. Its import duties were taken only in gold, and internal revenue it had none. The first appearance of a department for collecting that kind of taxation is in the present bill proposed by Mr. Chase. But the difficulties of the Government have compelled it to issue a paper that will pass current in any part of the territory. Through the evils of the war the people will at least gain that deliverance from the previous confusion of their currency which to Europeans appears a barbarism. If the social storm sweeps away the "wild cat" and bogus banks of the Union, it will have left some small compensation for the wreck of better things."

LOSSES THROUGH FAILURES.

A writer in the National Intelligencer of January 24, 1863, called attention to the fact that in 1861 and 1862 there was a diminution of the circulation in the Northwestern States "owing to the failure of 100 or

more banks in Illinois and Wisconsin." This diminution was only accomplished through loss to the public, and this point was feelingly brought forth in an article in Hunt's Merchants' Magazine in February, 1862. "The losses," the writer said, "which have in times past been sustained by bill holders have been immense and have fallen mainly on the poorer classes. It has been satisfactorily ascertained by careful examinations that the people have suffered to the amount of more than $100,000,000 by broken bank notes since our present system came into being." This article was written in response to the suggestion of a national currency made by Secretary Chase in December, 1861. In that report the Secretary said: "The value of the existing bank-note circulation depends on the laws of 34 States and the character of some 1,600 private corporations. It is usually furnished in greatest proportions by institutions of least actual capital. Circulation commonly is in inverse ratio of solvency. Well-founded institutions of large and solid capital have in general comparatively little circulation, while weak corporations almost invariably seek to sustain themselves by obtaining from the people the largest possible credit in this form." Following out the thought contained in this suggestion, the writer in the magazine said such banks "make it their chief business, in fact, to manufacture and put out as large an amount as they can by any contrivance keep in circulation—$5, $10, $20, $40 for one in specie. The Illinois banks had, for example, on the 1st of January, 1860, a circulation of $8,981,723; specie

on hand only $223,812, or $40 to $1, to say nothing of $697,037 they owed besides for deposits."

A contributor to the Bankers' Magazine in January, 1861, speaking of the expansion of the currency of the Illinois banks in 1860 by an amount of $1,400,000, made the following assertion: "This statement embraces the return of 94 banks, more than half of which are merely banks of circulation without capital and doing no business at their nominal locations. Only 1 out of 94 is established at Chicago; not one at Springfield."

To appreciate the feeling that existed concerning the currency that business men in the West were compelled to make use of prior to the passage of the national banking act, we may turn to the contemporary discussion in the West. If the language used shall seem strong, we must remember that it was addressed to a community familiar through daily experience with the facts set forth in the arguments. Hence we may conclude that the general picture presented by the authors is not much overdrawn.

RAGGED AND WORTHLESS BILLS IN CIRCULATION.

December 13, 1861, the Chicago Tribune called the notes then in circulation "the ragged and doubtful issues of 1,600 corporations." The writer of the article in the "Tribune" referred with respect to the "great banks of the country," those in New York, Boston, and Philadelphia, but regarded as a menace certain banks "in New England, New Jersey, Ohio, and Pennsylvania, where the habit is to issue $2 in notes for each dollar of capital, and where the only sources of revenue are in sums that customers pay in the shape of

interest on what the banks owe." He spoke of recent Illinois banks "that did business without any capital and that never pretended to pay their debts save in Missouri or Virginia bonds at some uncertain rate per centum * * *." This "bank nuisance," he said, "has become unbearable—a source of heavy loss, of infinite vexation, and of perplexing uncertainty to all business men."

The same paper January 1, 1862, said: "But what shall we say of our currency of the present time, of our wicked, clumsy, absurd banking system? * * * What power shall put the curb on the 1,600 makers of paper money in the States of the Union? What shall hinder them from reducing the currency to a dead level in value with that of continental money at the close of the revolution, or with that of French assignats during the days of the directory?" Farther on the writer spoke of "this ruinous paper-money system, which knows nor admits no control, which is managed alone for private profit, and often in flagrant disregard of the public weal * * *."

The evil was of course continuous, and on the 24th of March, 1863, the same paper described the currency then in circulation as "poor, mean, unsafe, inconvenient, and tormenting," and called the bills "notes of the shinplaster shops called 'local banks.' Torn, greasy, issued by nobody knows whom, payable—if payable at all—in other scraps of printed paper, like those on demand, not 1 in 5 of which is as good as the notes for an equal amount of any solvent business man; yet all clothed by custom and prescription with the attribute of money."

JAY COOKE'S OPINION.

Oberholtzer, in his "Jay Cooke, Financier of the Civil War," quotes from Cooke's "Memoirs," a diatribe against the currency from which a few extracts will give us the estimate placed upon a part of the notes then in circulation, upon which merchants and bankers were compelled to rely for remittances. After stating that their value depended upon the prosperity, good management, and honesty of the banks which emitted them, he goes on as follows:[a]

"In most cases a bank could issue circulation far beyond the amount of its capital stock. I have known instances in which banks have issued eighteen or twenty-five times the amount of their capital, and, so far as the public was concerned, with no other security than the good faith of the institution."

"Confusion worse confounded was the order of the day. Exchange upon Philadelphia, New York, and Boston, when procurable, rated all the way from 1 to 10 and 15 per cent premium, according to the locality. Notes were printed upon every variety of paper, and no two banks issued bills of similar appearance. It was generally the case that bank notes current in one State could not be current in the other States, and it was impossible for anyone but those skilled in handling money in vast quantities to detect the innumerable counterfeits and altered notes which were then in circulation. The banks were breaking constantly, and in many instances circulating notes became almost worthless. Fifty mil-

[a] Vol. I, p. 327.

lions of dollars per annum, it is safe to say, would not cover the loss to the people of this country growing out of broken banks, counterfeits, altered notes, and cost of exchange between different points."

It must be borne in mind that the part of the country which suffered most from this state of affairs was the rapidly growing West, where business reputations were quickly gained, and where newcomers in the field of business were not looked upon as intruders. So also it must be remembered that this was not a new experience. The whole country had before this suffered in a similar way in its experimental use of credit as a basis for a circulating medium, and in the seaboard States efforts were at this time being made, and that too with comparative success, to restrain the excessive use of credit and to protect note holders.

PROTESTS OF GOVERNORS.

From time to time protests had been raised in the West, and ineffectual efforts had been put forth there, by those holding responsible offices, to remedy the evils of the situation.

In 1853 the governor of Indiana, referring to the organization of State banks of issue, said in his message:[a] "The speculator comes to Indianapolis with a bundle of bank-notes in one hand and the stock in the other; in twenty-four hours he is on his way to some distant point of the union to circulate what he denominates a legal currency, authorized by the legislature of Indiana. He has nomi-

[a] Quoted in Bankers' Magazine for October, 1882, vol. 37, or vol. 17, 3d series, p. 278.

nally located his bank in some remote part of the State, difficult of access, where he knows no banking facilities are required, and intends that his notes shall go into the hands of persons who will have no means of demanding redemption."

The governor of Michigan, in his message for the same year, said: "At present we are giving charters to the issues of banks (*sic*) about which we actually know nothing, in whose management we have no participation, and are thus literally paying a large tribute for what generally in the end proves to be a great curse."

Governor Lord (*sic*, the name should be Ford) of New Jersey said:[a] "In many cases our banks, although ostensibly located in New Jersey, have their whole business operations conducted by brokers in other States. The facility with which they may be organized and located, without reference to the wants of the community or the business of the place, is destructive of all legitimate ends of banking."

Salmon P. Chase, in his inaugural address as governor of Ohio, in 1856,[b] touched briefly on this subject and indicated that relief was to be found through the use of coin supplemented by a uniform currency to be gained through congressional legislation.

FLUCTUATIONS IN QUANTITY.

Occasional acts of suppression on the parts of individual states, and failures in years of depression, once in a while operated to reduce the number of banks, while at

[a] Quoted in Bankers' Magazine for October, 1882, vol. 37, or vol. 17, 3d series, p. 278.

[b] Inaugural address of S. P. Chase as governor of Ohio in 1856 (Columbus, 1856), p. 3.

other times the creation of new corporations would increase their number and in consequence the amount of notes in circulation would fluctuate. The finance reports for 1862 and 1863 supply figures which illustrate these points. In 1857, 1,416 banks furnished about $215,000,000 of circulation. In 1858, while there were six more banks the circulation under pressure from the panic of the previous year fell off to $155,000,000. The situations for the next five years were respectively as follows: In 1859, 1,476 banks, $193,000,000 circulation; in 1860, 1,562 banks, $207,000,000 circulation; in 1861, 1,601 banks, $202,000,000 circulation; in 1862, 1,492 banks, $183,000,000 circulation; in 1863, 1,466 banks, $238,000,000 circulation.

GREATEST TROUBLE IN THE WEST.

The impression made by this cumulative rehearsal of the evils under which the entire country, but more especially the West, was laboring in 1861, may perhaps be stronger than a more complete view of the situation would justify. It is true, that the various statements made are undoubtedly well founded, but the entire truth is not sufficiently brought forth. There were strong banks in the East in the great business centers. The troubles experienced in the West were only felt by business men in the East, in so far as they were in touch with the quarters in which the troubles existed. Locally they were practically exempt, and the greater part of the volume of bills in circulation in the East were to be relied upon. The limitation of the area of the free circulation

of the good bills was, even with the best of them, a disadvantage to the banks which issued them, to the community in which the banks were established, and to the regions where their circulation was impeded. It is but fair to the bankers, who, when the opportunity was offered them to furnish the country with a uniform currency, rejected Mr. Chase's proposition voluntarily to nationalize their institutions, that in connection with this development of the evils of the currency, we should call attention to the alleviating features of their geographical distribution.

COUNTERFEITS.

One great burden imposed upon the public at this time was the necessity for constant discrimination between the genuine bills and the enormous number of counterfeits then in circulation. Careful inspection of all bills was necessary. Situated as we are to-day, with a limited number of designs for bills in circulation, uniform throughout the entire country, the extent of the use of which permits the engraver to avail himself of every possible exercise of skill in the preparation of his plates, no matter how expensive it may prove, we can scarcely appreciate the skill and acuteness demanded of a bank teller in those days, if he would avoid receiving the fraudulent and altered notes in circulation, the number of which known to be on the market was to be measured by the thousands. The extent of the different designs on the various bills in circulation furnished a wide field for the skill of the counterfeiters, who not only repro-

duced excellent facsimiles of actual existing bills, but also by delicate manipulation altered the denominations of small bills, converting them into those of higher value. All of this resulted in the creation of a special literature. "Counterfeit Detectors" were published as serials in all of our principal cities. "A pamphlet bank-note detector," says Professor Dunbar,[a] "was a part of the outfit of every well-provided counting room." Associations were formed for the suppression of counterfeiting and the author just referred to records that "the New England association for the suppression of counterfeiting paid for sentencing 228 persons during the four years, 1858 to 1861. It received an annual subsidy from the State of $1,500."

The "Western Banker" who contributed the article to Hunt's "Merchant's Magazine" in January, 1863, already referred to, thus describes the situation: "If any man has the curiosity, or will take the trouble to study the statistics contained in either of the quarto volumes which are weekly published in all the large cities under the name of 'Counterfeit Detectors,' he will find that there are in existence nearly sixteen hundred different banks, and that from these banks are daily being issued more than 10,000 different kinds of bank notes, and that a large portion of these issues have been frequently copied and put in circulation by the counterfeiter and his copartners in business."

The mere statement of these facts is perhaps sufficient, but the impression made by them upon participants in the confusion resulting from their existence is perhaps more

[a] Economic Essays, p. 325.

essential for our purpose. Even after the elimination of the southern banks the figures required to describe this condition of affairs were impressive. The Chicago Tribune, on the 13th of February, 1863, after stating that there were at that time 1,395 existing banks in the loyal States, goes on to say: "Every one of these banks has its separately engraved and printed notes, differing more or less in form or design pictorially, and each bank issues the various denominations which by usage seem to have become the rule."

"Taken together, each bank issues at least bills of six different denominations. The 1,395 banks therefore issue 8,370 varieties of notes, which people are expected to distinguish from counterfeits. Moreover, the varied issues of the fraudulent broken and worthless banks should not be overlooked. Of this class of 'retired banks,' as they are styled, 854 are enumerated in the published list furnished by the 'descriptive list' for January, 1863. Such as these have therefore contributed and in many instances still contribute their quota to this promiscuous catalogue."

"One phase of our paper currency engendered by this multiform system calls for special notice and consideration. We refer to counterfeiting. It may be safely stated that the art, as pursued in the United States, is without parallel, and that without vaunt or hyperbole, we can 'beat the world' on this, our national specialty—counterfeiting. A species of literature, even unknown to the rest of the world, has been initiated among us, and no merchant or mechanic deems himself safe unless he consults the 'Counterfeit Detector.' * * * The absolute facts, as detailed

by those interested in keeping the records of counterfeits, appear monstrous and fabulous even beyond credence. Of the various kinds it is estimated that there are about six thousand. * * *. Of the various species of 'counterfeits,' as they are called, it is ascertained that but a small part of those in circulation is composed of bona fide imitations of the genuine notes. Those known as alterations number highest. One cause of this multiplicity of altered notes is attributable to the similarity of titles among banks in different sections of the country. As, for instance, we find 27 Union banks, of which 7 are in the State of New York. A yet further aid to 'alterations' is in the frequent use of the same devices on notes of different banks, and often of different banks of the same name." Although the picture is drawn at a later date than that which we are at present considering, it nevertheless is equally true for the year 1861, and must be accepted as such.

A writer in the Bankers' Magazine, in November, 1862, stated that experienced New York bankers and a former bank-note engraver were unable to detect certain fraudulent notes. His conclusion was: "If experts such as bank tellers and bank-note engravers are so readily deceived by well-executed fraudulent bills, it can not be expected that merchants, traders, and others will be prepared to detect such frauds."

LOCAL RESTRICTION AND INSPECTION PROPOSED.

Such, in a general way, was the condition of the currency in use in our mercantile community which confronted Mr. Chase when he was suddenly called upon to

administer the finances of the Government, under circumstances for which there was no precedent, and which would compel decisions on his part the determination of which, whether right or wrong, whether for better or worse, was sure to be questioned. The only thought of any remedy for the currency situation generally entertained at that time would seem to have been through state legislation. Restriction of the proportionate circulation, improved government inspection, and more careful supervision of the bonds offered under the free banking laws for security were the proposed methods. "In most of the New England States," said Professor Dunbar,[a] "the chief effort of legislation was to restrict circulation, this form of liability still continuing down to 1860 in all these States, except Massachusetts, to be more important in amount than the deposits." The same author said: "In every New England State the legislature had placed the banks under the supervision of one or more commissioners, armed with certain powers of inspection and investigation and had provided for returns of the condition of every bank to be made to the state authorities. As to the frequency of such returns, however, there was no uniformity * * * ." This author also gave some particulars as to the character of the bonds deposited in some of the States to secure the circulation. It was clear that steps were being taken to avert some of the perils of the situation, but evident that relief in the way that naturally would be taken could only come after long probation of the evils.

[a] Economic Essays, p, 318.

WHAT THE TREASURER COULD RECEIVE.

At some point in this discussion some reference must be had to the existing laws with reference to the money which could be received by the various agents of the United States to whom payments of one kind or another were made. At the outset of Mr. Chase's career the question of what collectors could or could not receive was of comparatively little consequence, but at a later date it became of great importance. The bearing of what has just been said will be appreciated when we ascertain the limitations imposed by the Government upon receipts at the Treasury at this time.

The law relating to government collections had undergone sundry changes, coincident with several periods of financial excitement. In 1789, it was provided that tonnage and import duties should be made in coin alone.[a] In 1800, it was provided that payment to the United States for land in the Northwest Territory should be made in specie or in evidences of the public debt.[a] In 1816, provision was made by joint resolution, that thereafter all dues to the United States should be collected in the legal currency of the United States, or treasury notes, or notes of the Bank of the United States, or in notes of specie-paying banks.[b] This permission to receive notes of specie-paying banks worked disadvantageously to the Government when the Northwest Territory was opened up to settlement, and in 1836, during the height of the

[a] Brightly's Digest, Ed. 1858, p. 888, § 58.

[b] This provision is referred to in the act of July 4, 1840. 5 Statutes at Large, § 19, p. 893.

inflation and speculation, efforts were made to secure the repeal of this resolve. These efforts were however vain, and after the adjournment of Congress, Jackson issued his famous "Specie Circular," which limited to specie the money permitted to be received by the government land commissioners. A bill rescinding this order was passed by Congress, March 2, 1837, but it failed to become a law, through Jackson's refusal to put his signature to it.[a] Van Buren continued to enforce the rule laid down in the "Specie Circular."

In 1840 an act was passed[b] modifying the resolution of 1816, but ignoring the intervening "Specie Circular." One-fourth part of all payments for duties, taxes, sales of public lands, debts, and sums accruing or becoming due to the United States before June 30, 1841, was to be collected in "legal currency of the United States." For the succeeding year an additional fourth. For the year ending June 30, 1843, still another fourth was to be collected in this manner, and after that all sums for the purposes before mentioned and all sums due to the Post-Office Department were to be paid in gold and silver. This act was repealed August 13, 1841.[c] On August 6, 1846, it was enacted that all payments to the Government should be made in gold and silver coin only or in Treasury Notes issued under the authority of the United States on and after January 1, 1847.[d]

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[a] Parton's Life of Jackson, vol. iii, p. 625.

[b] 5 Statutes at Large. An act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenue, § 19, p. 390.

[c] 5 Statutes at Large, p. 439.

[d] 9 Statutes at Large, § 18, p. 64.

When it came to negotiating loans with the banks, the impossibility of suddenly withdrawing from the market and transferring the vast sums required by the Government from the vaults of the banks to the subtreasuries, compelled some change in the definition of the powers of the Treasury in regard to deposits, and August 5, 1861, in the loan act a clause was inserted authorizing the Secretary of the Treasury to deposit the money to be obtained on the loans thus authorized to be made, in such solvent specie paying banks as he might select. Mr. Chase was not disposed to exercise his power of checking out these deposits in a way which was altogether satisfactory to the banks, and on the 4th of October, 1861, Mr. John E. Williams, president of the Metropolitan Bank of New York, wrote him a tart, not to say arrogant letter on the subject. This letter is not to be found in any of the fragments of Mr. Chase's correspondence which have been preserved, but it was reproduced by Mr. Williams himself in a letter to E. G. Spaulding of later date, which was printed by Spaulding in his "Extra sheets from Spaulding's History of Legal Tender Paper Money," etc.

MR. CHASE'S INAUGURAL.

The details heretofore given concerning the character of the money which could be received in the United States Treasury, in so far as they deal with matters in the past, are not absolutely essential for our consideration. They are worthy of note, however, as evidences of the prolonged struggle on the part of the banks to secure recognition for their notes. Mr. Chase was a hard-money man, and although it was urged by some

that excuse might be found for receiving bank notes at the Treasury in some of the legislation relative to the establishment of subtreasuries, he continuously adhered to his original proposition. In his inaugural address as governor of Ohio in 1856 he thus defined his views: "A sound and sufficient currency is indispensable to the welfare of every civilized community. The best practicable currency in my judgment would be a currency of coin, admitting the use of large notes only for the convenience of commerce. Such a currency, however, is only attainable through the legislation of Congress and the action of the General Government." This attitude became of the utmost importance after the passage of the internal-revenue act.

GOVERNMENT DEPOSITORIES.

There was still another point, which at the outset of Mr. Chase's career as Secretary was of little importance, but which was destined to become of great consequence to him in carrying out his schemes in the near future, and that was where should government officials, receiving money in their official capacity, make their deposits? The designated depositories of the United States were under ordinary circumstances sufficient in number and were adequate for the purposes for which they were created, but the clause in the law of 1846 which prevented the use of banks for that purpose placed limitations and responsibilities on the officers having charge of the government funds, which it was plain would prove troublesome in case of the enlargement of their functions or the increase of the area of their action.

FINANCE REPORTS, 1861.

At the extra session of Congress in July, 1861, Mr. Chase submitted his first report. He estimated that there would be required to meet outstanding obligations of the Government, to pay interest, and to satisfy appropriations already made or required to be made by the extraordinary exigencies of the Government for the fiscal year ending July 1, 1862, $318,500,000. This was an amount far beyond the capacity of our banks and bankers to furnish through any ordinary methods, being greatly in excess of the entire amount of coin in use in ordinary business in the country. Estimates varied greatly as to what that amount was, some placing the entire amount in the banks and subtreasuries at but little over $200,000,000, others raising the limit to $275,000,000. This enormous increase of the use by the Government of the coin in the country when added to the normal demands of current business did not seem to Mr. Chase to be beyond the possibility of achievement, and in his annual report in December, 1861, in which he submitted various arguments in behalf of the establishment of a national banking system, he said: "The large amount of specie now in the United States reaching a total of not less than $275,000,000, will easily support payments of duties in coin while these payments and ordinary demands will aid in retaining the specie in the country as a solid basis of circulation and loans." He then went on to say (assuming as a condition precedent the nationalization of the banks), that the whole circulation, whether of coin or bank notes would bear the impress

of the nation and would not be likely to be increased beyond the real wants of business. These words were written and the report was submitted to Congress before the suspension of specie payments, which took place within less than a month after the report was submitted. The suspension greatly modified the prospects of relief to be obtained from nationalizing the banks, and compelled financial steps which with the growing magnitude of the expenditures of the Government minimized the argument of the immediately pending nature of the relief to be derived from the banking scheme, but greatly increased the potency of the claim that such institutions could be used for government depositories.

THE BANKS SUSPEND.

The suspension of the banks, although inevitable in the near future, was precipitated by the emission of United States notes to meet the current expenses of the Government. Writing to Mr. J. T. Trowbridge at a later date, Mr. Chase said the banks wanted him to suspend the emission of government notes, give credit to them for subscriptions and accept in payment of drafts on them such funds as they could furnish. He replied that if they would furnish him what gold he required he would withdraw the government notes already issued and agree to emit no more, but unless they could do that he must continue to make use of the government credit in this form as far as his necessities should require. He further said that "it soon became plain that the bank note circulation could not be sustained at par of coin unless made receivable by the Government, and that it could not be made

so receivable without risk of serious, perhaps irretrievable financial embarrassment or disorder. In other words, it became plain that suspension was inevitable except by sacrifices which the banks could not make."

This letter to Mr. Trowbridge is in the possession of the Pennsylvania Historical Society. It bears no date, but was written after the suspension of specie payments, and the negotiation with the banks which is referred to was probably the one which drew forth the letter from Mr. John E. Williams which has been already alluded to.

MARKETING THE BONDS.

When Mr. Chase took his seat in the Treasury Department he found still unexhausted some of the borrowing capacity which had been conferred upon his predecessors. The credit of the Government during the last days of Buchanan's administration was clouded by doubts of what the 4th of March might bring forth, but the inauguration of Lincoln at the Capitol gave promise of a future for the country and furnished a rallying point for patriotism. Mr. Chase met the condition of the finances with quick action and with ingenious devices to secure support from the people, as well as from the great banking institutions. He evidently regarded the normal rate of interest at that time for a twenty-year government bond as 6 per cent. Setting aside all considerations of temporary advantage to be derived from long term or indefinite loans such as are in favor in Europe, he adhered to the policy which has always prevailed in this country of loans with fixed terms. Recognizing the fact that under the disorganization then prevalent and the enormous war

expenditures inevitably impending he could no longer claim that conditions were normal, he secured authority to negotiate bonds and notes of various length of terms, from noninterest-bearing demand notes to twenty-year bonds, the rate of the interest-bearing securities varying from $7\frac{3}{10}$ per cent for three-year notes convertible into 6 per cent twenty-year bonds to $3\frac{65}{100}$ per cent one-year small denomination notes also convertible into long-term bonds, the whole being so arranged as to enable him to secure help from every available source.

Hon. Samuel Hooper, reviewing the situation in a speech in the House in 1869,[a] thus described the numerous government obligations which were floated at one time or another, under the pressure of these circumstances: "Among the different forms of public debt were 'certificates of indebtedness,' payable within one year from their date; 'temporary loans,' payable at ten days' notice; 'compound-interest notes,' principal and interest payable at maturity; and 'seven-thirty Treasury notes,' convertible at the holder's option into five-twenty bonds or payable at three years from date." The temporary needs of the Government having been provided for at these high rates of interest, he was able a few months later to launch the 6 per cent bonds, "redeemable after five years and payable in twenty," thus making provision for a reduction of interest in the future, when the market might be better. The bankers protested against this redemption clause, and insisted that it would imperil the negotiation of the bonds, but Mr. Chase was firm, and not only were

[a] Congressional Globe, February 5, 1869, p. 920.

the bonds floated with this clause, but at a later date he was able to negotiate a large number of 5 per cent bonds, redeemable after ten years and payable in forty.

NATIONAL BANKS SUGGESTED.

It was during the summer of 1861, when his active brain was at work devising schemes for raising money for the country through taxes and through loans, that he realized the advantage to be derived from "the preparation and delivery to institutions and associations of notes prepared for circulation under national direction and to be secured as to prompt convertibility into coin by the pledge of United States bonds." The predicted gains from the adoption of this plan were that the people "in their ordinary business would find the advantages of uniformity in currency; of uniformity in security; of effectual safeguard, if effectual safeguard is possible, against depreciation; and of protection from losses on discounts and exchanges; while in the operations of the Government the people would find the further advantage of a large demand for government securities; of increased facilities for obtaining the loans required by the war; and of some alleviation of the burdens on industry through a diminution of the rate of interest or a participation in the profit of circulation without risking the peril of a great money monopoly. A further and important advantage to the people may be reasonably expected in the increased security to the Union, springing from the common interest in its preservation, created by the distribution of its stocks to associations throughout the country as the basis of circulation."

This description of the advantages to be derived from the proposed currency is quoted from the finance report of December, 1861, in which Mr. Chase made a masterly presentation of the subject, and in which he also discussed the advantage to be derived from a circulation composed of government notes. The gains which were evident in the latter scheme—the permanent loan without interest of the amount of the emission and the furnishing of a uniform currency—would be desirable, he said, provided "such a circulation could be certainly and strictly confined to the real needs of the people and kept constantly equivalent to specie by prompt and certain redemptions in coin." He regarded as more than an offset to these advantages the temptation to issue an excess of notes, the hazards of panics, and the immeasurable evils of dishonored public faith and national bankruptcy.

He believed that the notes which he had suggested would furnish a suitable uniform currency, and he thought this step should be carried out "through the voluntary action of existing institutions." He was of opinion that the plan, if adopted, would "impart such value and stability to government securities that it would not be difficult to obtain the additional loans required for the service of the current and the succeeding years at fair and reasonable rates * * *."

UNIFORM CURRENCY AND BOND MARKET.

Whether the predominant motive for the establishment of a system of national banks, to be inferred from the arguments in this report, was that they would fur-

nish a safe uniform currency, or that they would provide a market for government bonds, it is evident that when he wrote this report Mr. Chase hoped for the immediate voluntary transference of the entire circulation of the banks of the country from their own notes to government notes, and it is plain that his hopes for an early end to the war led him to overestimate the influence that this nationalization was ultimately destined to have upon the market, protracted as the time was in which the transference was to be made through several years of patient waiting. The daily expenditures of the Government, large as they seemed at that time, shrank into insignificance when compared with the gigantic outlays of the next summer, and great as was the amount required by all the banks for security for their circulation, it formed, when it was actually used for that purpose, but a fraction of the national debt. The disbursements of the Government had crept up to between $2,000,000 and $3,000,000 a day,[a] and the New York Journal of Commerce of January 20, 1863, in an article against Mr. Chase's scheme, showed the effects upon the imagination of the large sums with which the Government was then dealing, by saying, "if all the circulation should be based on entirely new bonds, the whole amount realized would be less than $200,000,000." The provision of a market for two hundred millions was not worth considering, in the opinion of that paper. Never-

[a] It must be borne in mind that concurrently with these proceedings the premium on gold had gone up, so that the expenditures of the Government, reduced to a coin basis, were not much over those of the previous year. Practically, however, these expenditures were ultimately paid at the figures mentioned, in consequence of the resumption of specie payments.

theless the benefits to be derived by the Government from this feature were dwelt upon by Hon. Samuel Hooper in a speech in the House January 19, 1863,[a] in which he said: "Another of the important benefits which the Government would derive from this system of national banks would be the amount of United States stock which would be absorbed to be used as security for its circulation. * * * It must be clear to the feeblest comprehension that by so much as the credit and strength of the federal bonds would be improved by this plan of depositing them as security for the notes in circulation it would be sound policy to avail of it at this time when the necessities of the public service require so large an amount of bonds to be issued."

CONGRESS CHANGES ITS ATTITUDE.

This speech of Hooper leads naturally to the consideration of the change of the feelings of Congress with regard to the plan for a uniform national currency which was evident at the time when the speech was made. This attitude was necessarily affected by current events, and foremost in their influence were those of a military or of a financial character. Pronounced success in the field at an early date in the war would have confirmed the existing belief that the conflict would not last long, and, as a consequence, it would have been assumed that the finances of the country would not be seriously deranged. On the other hand, disaster in the field or even lack of success made powerful the argument that the continuous dis-

[a] Congressional Globe, 3d sess. 37th Cong., p. 385.

bursements occasioned by the military necessities demanded pecuniary sacrifices from the people and might even call for a revolution of the banking system of the country.

Setting aside for the moment all consideration of military affairs, let us take a glance at the growing influence of the financial situation, its imperative demands, and its pressing needs, and let us endeavor to measure the ever-increasing burden of the labor of providing funds for the Government, which had been placed upon the shoulders of the Secretary of the Treasury. The expenses of two months of war, at the rate of disbursement which was being made in the summer of 1861, were equal to the entire national debt of July 1, 1860. At a later date the expenditures of less than a month reached the same figure.

When Secretary Chase, in July, 1861, reported that the exigencies of the Government would require for the fiscal year ending June 30, 1862, the sum of $318,519,581.87, the size of these figures, notwithstanding the fact that this amount was five times the total of the national debt in July, 1860, and three and one-half times that of the debt of 1861, did not seem to disturb the optimism of either Congress or himself. No conception was then had of the character of the contest upon which we had entered. By December of the same year, the financial difficulties attendant upon procuring the funds for such enormous and unprecedented expenditures gave birth in the mind of the Secretary to a keener perception of the task before him. Congress, however, was not at this time aroused to a full realization of what the Secretary was confronted

with. In July, in response to an appeal on the part of the President for authority to borrow $400,000,000, the Secretary had been empowered to issue $250,000,000 in twenty-year bonds and three-year Treasury notes, $50,000,000 in noninterest bearing one-year notes, and another issue of notes at a lower rate of interest, amounting to $20,000,000, was also authorized.[a]

It is no part of my purpose to enter upon any detailed statement of the complicated measures then taken by the Secretary to secure funds for the Government. These details have no immediate bearing upon the topic under consideration. The sole reason for this general review of the finances is to call attention to the influence that this growth of the national debt must necessarily have had upon Congress in the final determination of financial legislation. The estimate of $318,000,000 for the expenditures of the fiscal year of 1862 fell short by $240,000,000, and as early as December, 1861, Mr. Chase realized that he had not only underestimated the expenditures but that he had overestimated the receipts. He then thought that it would require an additional appropriation of $214,000,000 to make up the probable deficiency, being still short of what was actually required upward of $25,000,000. Experiences like these served to open the eyes of those who were in charge of affairs to the hazards to which their conjectures were exposed.

Authority was given the Secretary in 1862 to negotiate the sale of $500,000,000 6 per cent bonds, redeemable in five years and payable in twenty. Then followed the

[a] Bayley's National Loans of the United States, p. 78.

wonderful success of the direct appeal to the people in placing this enormous loan. Simultaneously with the passage of this loan bill, authority was granted to emit $150,000,000 legal-tender Treasury notes, and July 11, 1862, an additional emission of $150,000,000 of these notes was authorized. Still another $150,000,000 was authorized March 3, 1863. Fractional currency, certificates of indebtedness, compound-interest notes, and, later, coin certificates, all helped to swell the debt. The $65,000,000 of national debt at the end of the fiscal year of 1860 became $91,000,000 in 1861, was $524,000,000 in 1862, and rose to $1,120,000,000 in 1863. The extraordinary expenditures which brought about this enormous increase of debt from year to year necessarily compelled consideration of the recommendations of the Secretary of the Treasury. Any radical departure from the plans under which he was seeking to procure funds must have carried with it a change in the head of the department at a period when such a change would have been full of peril.

OPPOSITION OF SECRETARY TO LEGAL TENDERS.

One other point concerning current financial events ought to be mentioned before we turn to Mr. Chase's correspondence for information as to schemes submitted for his consideration, and that is his opposition to the legal-tender feature of the greenbacks. The demand notes were not legal tender, and there was some hesitation in receiving them at first. Ultimately it became necessary to attach the legal tender function to government notes in order to compel their reception in settlement of debts.

In a letter addressed to Thaddeus Stevens, January 20, 1862, Mr. Chase said: "It is not unknown * * * that I have felt, nor do I wish to conceal that I now feel, a great aversion to making anything but coin a legal tender in payment of debts."

The passage of the legal tender law shortly thereafter destroyed the last hope for carrying on the affairs of the Government on a specie basis. Interest on government securities continued to be paid in gold and the principal of the long-term bonds would presumably be payable in coin, but the ordinary government obligations maturing from day to day could only be met in greenbacks. His desire, then, for a currency which should meet with prompt redemption in coin was therefore impracticable.

It must also be borne in mind that the passage of the internal-revenue act modified the relative urgency of certain of the motives which may have influenced Mr. Chase in determining the adoption of the national banking system as a measure of relief at this time. Hundreds of collectors were now to be appointed. They would need designated depositories in which they could place their collections. The greenbacks, to the extent that the banks required reserves, displaced a corresponding amount of gold held for that purpose which was sold, and thus through this withdrawal from circulation of the notes which were substituted in the bank reserves, only the balance of the government notes fully performed the function of furnishing traders a uniform currency. Mr. Chase was reluctant to emit more of them than he was forced to, and he therefore dwelt upon the possibility of such

a currency being furnished by the banks under his proposed system.

MR. CHASE'S CORRESPONDENCE.

The portions of the correspondence of Mr. Chase which have been preserved contain letters from persons scattered over the country, many of them from eminent men whose words of encouragement must have proved grateful, some from friends of the existing banks, others from critics, and not a few from well-meaning men of speculative temperament who felt impelled to come to the aid of the Secretary. Their consideration at this point is desirable.

January 8, 1861, L. M. Kellogg, of San Francisco, wrote Mr. Chase[a] recommending him to meet the current expenses of the Government with noninterest-bearing treasury notes, which should be redeemable at all subtreasuries in gold and silver, or at the option of the Government in interest-bearing treasury notes, the interest of which should be payable in specie.

June 22, 1861, Mr. A. Campbell wrote from La Salle[a] that 90 per cent of the people were in favor of the emission by the Government of noninterest-bearing treasury notes, in denominations from $5 to $500, redeemable at the end of two or three years, for the purpose of supplanting the worthless trash in circulation.

S. N. Goodale wrote from Cleveland,[a] Ohio, June 26, 1861, that the West wanted interest-bearing notes in small denominations, payable in twenty years if not redeemed before.

[a] MS. Chase Letters, Library of Congress.

July 7, 1861, Mr. E. Littell wrote from Boston,[a] suggesting that if the treasury drafts on the mints and subtreasuries were made in small sums and on paper specially prepared and with special engraved designs, these drafts might be made to serve as currency. He called attention to the fact that in England there were twenty millions sterling of similar drafts constantly afloat in the market.

O. B. POTTER SUBMITS A PLAN.

Mr. O. B. Potter submitted a plan to Mr. Chase's consideration on the 19th of August, 1861,[b] which bears a close resemblance to the scheme set forth in the Treasurer's report of that year. It is of sufficient importance to be given in full.

Hon. S. P. CHASE,
Secretary of United States Treasury, Washington, D. C.

DEAR SIR: I beg leave to suggest for your consideration a plan which occurs to me as certain if adopted to secure for the country several ends always important, but especially so now.

PLAN.

Allow banks, and bankers duly authorized in the loyal States, to secure their bills by depositing with a superintendent appointed by the Government United States stocks at their par value in the same way that the banks and bankers in New York secure their circulation by depositing New York State and United States stocks with the State, thus making the stocks of the United States a basis of banking on which alone a national circulation can be secured.

To do this it is necessary only for the Government to authorize and appoint a superintendent connected with the Treasury whose duty it shall be to receive from duly authorized banks and bankers within loyal States United States stocks in sums of not less than $200,000 from one party and hold the same as security for an equal amount of bills to be properly stamped and signed by such superintendent and delivered to the depositing bank or banker.

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[a] Dated Office of Littell's Living Age. MS. Chase Letters, Library of Congress.

[b] MS. Chase Letters, Library of Congress.

This mark or stamp and signature of such superintendent to guarantee to the holder of the bills issued that the same are secured by United States stocks deposited with and held by the Government, and that in case the same shall fail to be redeemed by the bank or banker issuing them, then on due demand and protest such superintendent will sell upon proper notice to the bank or banker and apply to the redemption of said bills the stocks held to secure the same.

This money might properly be designated United States currency as distinguishing it from the bills issued in the several States and not thus secured, and should be so plainly and unmistakably designated as to be readily distinguishable anywhere at sight.

It might be received and paid out by the Government in cases where it is not otherwise agreed or provided, but this is not at all essential to the plan, and might encounter the prejudices of those who think specie more reliable than the faith and covenant of the Government under which they live.

The plan will be fully understood by an examination of the statutes of this State regulating the securing of their circulations by our banks by deposit with the State.

The objects which will be reached by this plan are:

1. It is obvious that the bills thus secured will have, in whatever State issued, a national circulation, and be worth the same in all parts of the country. Nay, these bills would be worth their face wherever American commerce is known, a ready medium of exchange would be always at hand throughout the country, and between all parts of it, and all fluctuations and trouble in this respect would be forever ended.

2. The fact that in this way banks and bankers could obtain a national circulation for their bills, would make United States stocks eagerly sought after by them, and their price would be always maintained at or above par though they bear only a low rate of interest; 4 percents could never fall below par after the system is fairly understood and at work.

3. This will enable capitalists in the older States by investing in United States stocks to engage in banking and furnish a currency to the younger States which will be equally serviceable to them as if issued in their own States; a bill thus secured issued in Boston will circulate as well in Oregon as if issued in Oregon, and probably better.

4. None of the objections justly urged against a United States bank lie against this plan. It gives to the Government no power to bestow favors and does not place a dollar in its hands to lend. It leaves the banks and bankers of the several States to do the business as now in the same banking houses and under the same direction, within such safeguards and limitations as the several States may themselves impose. The banks will hold their charters from, be controlled by, and be accountable to their several States as before. All the Government does by this plan is to place upon so much of the currency as is secured by its own stocks the stamp of nationality, to the extent of placing upon each bill so secured its assurance that the bill

is so secured to the bill holder, and that upon failure of the bank the stocks deposited with the government officer shall be by him sold and the proceeds applied to redeem the bills.

5. If the United States debt should not be sufficient to afford sufficient security for the bank circulation of the country, the banks can issue bills for domestic circulation secured by the stocks of their own States as they do now, the bills being so marked as to be readily distinguishable at sight from those secured by United States stocks. Indeed, all the bills secured by United States stocks deposited with the Government should have engraved upon them some suitable stamp which should be the same upon every bill, so that it might readily become familiar to everybody.

6. This would make the Government and the capital mutually dependent on each other, and every bank and banker would feel a daily interest in supporting and keeping the Government credit above suspicion. Every citizen, too, who is supplied with such a currency—a currency which will be equal to gold throughout every foot of our territory, and everywhere of the same value, with which he can travel from Oregon to Florida, and from Maine to Mexico—would feel and realize every time he handled or looked upon such a bill bearing the national mark, that the union of these States is verily a personal benefit and blessing to all.

If it is thought more prudent, but 90 per cent of the stocks deposited may be issued in bills, and thus all fluctuations in the stocks be provided against.

Exactly what legislation would be required to carry out this plan you will readily see. One simple statute creating the superintendent, and directing him how to receive and hold the stocks, mark the bills, and sell and apply the stocks to the redemption of the bills in case of failure of any bank issuing them would be all that would be demanded. Such a statute passed and the national stocks would instantly be absorbed by the banks, because thus and thus only could they make their circulation national. No sooner would one bank supply itself with such a currency than all must in self-defense, because the people would have a national currency for daily use, and would deal with the banks who could supply this.

The several States will promptly provide the required legislation on their part by providing that this United States currency need not be further secured by deposit with the State.

The adoption of this plan could not fail to put an end to all financial troubles during the war, and be an increasing benefit and blessing ever after. While it would supply all the means required for the war, it would instantly enable the older and newer portions of the country to increase their trade with each other by supplying to such nearer portions an abundant and perfectly safe currency.

If it be said that this plan bases the currency upon a permanent national debt, the answer is: It bases so much of the currency as is necessary for purposes of exchange and interstate commerce upon the credit of the nation, and leaves with the nation, by regulating the amount of its debt,

or limiting the amount of bills which may be thus stamped and secured, the power to control the amount of the national currency and keep it within the wants of the people, while the power of loaning the money and using it reposes with the people exactly as now through their banks.

Bankers can get no more bills than Congress authorize: and legislators and politicians can not handle one dollar of these bills unless they are placed in their hands by the owners of them.

It is impossible to see how such a system can be made use of for political ends.

This plan has many decided advantages over the present expedient of treasury notes. It makes it for the direct interest of every bank and banker to keep the United States stocks above par. It also puts upon the banks, and not upon the Government, the redemption of the circulation, the Government only acting as trustee in selling the deposited stocks in case the bank fails to redeem.

A permanent national debt of sufficient amount for these purposes, which is a band of union, a guaranty for peace, and a daily convenience and blessing to all, will have no terrors for a people whose interests have been the sport of fluctuations in exchange as ours have for the last ten years.

Very respectfully, your obedient servant,

O. B. POTTER,
495 Broadway, New York.

NEW YORK, *August 19, 1861.*

Potter's full name was Orlando Bronson Potter. He published in 1875 a pamphlet entitled "Plan for appreciating the national bank notes to the value of coins without diminishing the volume of the currency," by O. B. Potter; also, his "Plan of the national-bank currency based upon, and secured by, the national stocks;" submitted to Secretary Chase August 14, 1861. New York: Brown & Hewitt, printers, 30 Frankfort street, 1875. The date given in the title of the pamphlet for the submission to Mr. Chase differs from the apparent date of the letter already quoted, the one being August 14, the other August 19. It is not important which is correct. A second pamphlet containing this plan was printed by Potter in 1883. Its title was "The national currency; its origin. Compliments of O. B. Potter, New York,"

etc., 1883. There is nothing in it of interest in view of what has already been given.

NUMEROUS SUGGESTIONS.

Hon. J. R. Doolittle, United States Senator from Wisconsin, wrote from Chicago,[a] September 13, 1861, suggesting that the West was in need of treasury notes and recommending that the circulation of banks below the $20 notes be taxed out of existence and the place supplied permanently by treasury notes.

Hon. Simeon Nash, of Gallipolis, urged Mr. Chase on the 17th of September, 1861,[a] to receive bank notes from subscribers to the popular loan. To this Mr. Chase replied on the 26th of September, in a long letter the gist of which is contained in one sentence: "At any rate until Congress shall decide otherwise, I must execute the law as it exists, and receive and pay out only coin and Government notes."

William Gunckel, a native Buckeye, wrote from Germantown, Ohio, October 3, 1861,[a] announcing the first arrival of the $20 United States Treasury notes. "Many persons," he said, "called to see them, and with glad hearts rejoiced at the event." John W. Caldwell, of Cincinnati, on the 22d of October, wrote that he wanted the entire national debt to be put in circulation in the form of money.

S. M. Felton wrote November 9, 1861, from the office of the Philadelphia, Wilmington and Baltimore Railroad, in Philadelphia,[a] offering to make as much use as was

[a] MS. Chase Letters, Library of Congress.

possible of treasury notes in paying off the employees of the road. They could hardly be adopted to the full extent at once. The president of the Pennsylvania road and the president of the Philadelphia and Reading road would also cooperate in a similar way.

PAMPHLET BY ELEAZAR LORD.

In chronological sequence we may at this point glance at a pamphlet entitled "A letter on (the) national currency, addressed to the Secretary of the Treasury," which is dated November 22, 1861,[a] and the authorship of which is attributed to Eleazar Lord. He makes the following suggestion: "Let the Treasury Department (or a bureau under the responsibility of the Secretary) be authorized to propose to the existing banks throughout the country, and to new banking companies, to invest their capital at once or gradually, and in part or wholly, in national stock (which when due is redeemable in specie) having twenty or more years to run; to deposit the said stock with the department as security for circulating notes to a like amount." He ventures to think that his suggestion "will in some degree tally with your own views and reflections."

ADVICE, CONGRATULATIONS, AND CRITICISM.

Joseph Medill wrote from Chicago, November 25, 1861,[b] urging the circulation of the demand notes as a national currency and the taxation of the "debt factories," as he termed the banks, whose notes he denominated "het-

[a] Published in New York in 1861, see p. 8.
[b] MS. Chase papers, Pennsylvania Historical Society.

erogeneous rags." These familiar phrases we have met with in the Chicago Tribune, probably from the pen of Medill himself.

On the 11th of December Alphonso Taft, of Cincinnati, the father of the President of the United States, wrote Mr. Chase,[a] complimenting him upon his report which had just been submitted, and saying that if Congress should adopt his recommendations it would in itself be no inconsiderable compensation for the war.

Mr. James Brown, of New York, wrote on the same day, inclosing a criticism of Mr. Chase's report.[a] He seemed to think that it was expected that the Treasury should derive direct benefit from the notes to be furnished by the Government to the proposed national banks. This is shown by the title which he gives to his analysis, viz.: "Analysis of the report of Mr. Secretary Chase, so far as it relates to raising $150,000,000 by substituting treasury or government notes in lieu of, or for, the bank notes now in circulation."

W. D. Gallagher, wrote from St. Louis, December 13, 1861,[b] commending the report and saying that many people thought the recommendations ought to be adopted and the unsafe and fraudulent local currency be utterly and forever driven out of circulation.

G. W. Gorum wrote from Newark, N. J., December 16, 1861,[a] suggesting a plan for nationalizing banks, which was similar to that proposed by Secretary Chase, but which apparently contemplated the emission of the national currency to state banks to the full value of

[a] MS. Chase Letters, Library of Congress.
[b] MS. Chase papers, Pennsylvania Historical Society

the bonds deposited with the Government, and with no suggestion of national incorporation.

Hon. Amasa Walker wrote from North Brookfield[a] the same day expressing approval of Mr. Chase's project, which seemed to him a noble and a beneficent one. He hoped Congress would give the matter careful and dispassionate consideration.

E. K. Alburtis wrote from New York,[a] December 17, 1861, inclosing a printed document published by him, in which the emission by the Government of as many legal-tender notes as were required to place its financial wants at ease was advocated and the proposition to drive out state issues on state stocks was opposed.

James W. Taylor wrote from St. Paul, December 24, 1861,[a] calling Mr Chase's attention to a review of the Secretary's report written by J. J. Knox, which was then being published in the St. Paul Daily Press. Some of the material used by Mr. Knox in this review was also made use of in an article in Hunt's Merchant Magazine in January, 1862. In this discussion the author enumerates the objections as well as the advantages of Mr. Chase's plan, which on the whole meets with his approval. He is somewhat satirical when he speaks of the voluntary conversion of the state banks to the system through inducements to be offered them. "What these inducements are does not appear," he says, "but they may perhaps be found in the proposed tax act, where in company with distilled liquors, tobacco, carriages, etc., bank notes will be seen. The fact that

[a] MS. Chase Letters, Library of Congress.

state bank notes would be taxed while United States bonds and notes would be exempt would also be, in his judgment, "no small inducement."

Isidor Bush wrote from St. Louis, December 28, 1861, as follows:[a] "Your report has induced me to explain to my German fellow-citizens the great, lasting, and beneficial revolution in our monetary system which we may anticipate from the adoption by Congress of your plan * * *." Inclosed with this was a newspaper clipping from the Daily Democrat of December 27, 1861, headed "The Report of the Secretary of the Treasury. A Revolution in Our Monetary System." (Translated from the Mississippi Blätter, December 15, 1861.) The writer attributes the suffering under the swindling of more than 1,500 banks, from more than 30 different States, with contradictory and ruinous banking laws, to the states rights doctrine, and thinks that this "revolution," as he calls it, must destroy the fatal mania of the sovereignty of the several States. He is of opinion that Mr. Chase's plan will be adopted, for the reason that it is the most feasible way to raise the loans necessary for prosecuting the war to a successful issue. It makes it for the interest of capitalists, of the money power, and of banking institutions to uphold and sustain the credit of the Government. It would increase the common interest for the preservation and safety of the Union.

John D. Martin, of Lancaster, Ohio, wrote, December 31, 1861,[a] advocating the indefinite emission of greenbacks to pay government expenses.

[a] MS. Chase Letters, Library of Congress.

TREASURY NOTES REFUSED.

William G. Thomas wrote from Baltimore[a] the same day, saying that a five-dollar treasury note payable in New York had that day been refused by the Baltimore Gas Company, a company controlled by enlightened men in financial matters, who were friendly to the Government. He recommended the prompt emission of $300,000,000 in demand notes, receivable for all public dues, except import duties, which should be continued to be paid in specie. The notes should be a legal tender. It should be understood that they were not to be increased under any circumstances. The effect would be to drive out of circulation the good and the worthless notes of state banks and possibly compel the banks to wind up. Meantime Mr. Chase's scheme might be put into operation.

POTTER'S PLAN ADOPTED.

The subject as laid before Congress by Secretary Chase in his report, December 1, 1861, was practically in the same form as that in which it had been presented for his consideration by Mr. Potter in his letter of the 19th of August, 1861. It corresponded also with the suggestions in Mr. Lord's pamphlet, dated November 22, 1861, of which it must be said that the quoted remark to the effect that the author thought that his suggestions tallied with Mr. Chase's opinions indicates clearly that the project then presented by him could not be considered novel, and perhaps was not original. He was, in other words, bringing to the Secretary's attention something with which the

[a] MS. Chase Letters, Library of Congress.

Secretary was already familiar. Mr. Gorum's proposition, submitted December 16, 1861, differs so little from that incorporated in the finance report that the suggestion naturally arises, Had the writer read that report? All of these proposals were founded upon the use of existing state institutions as mediums for distributing a national currency secured by government bonds.

MR. SPAULDING PREPARES A BILL.

At this time, according to Hon. E. G. Spaulding, Mr. Chase had not prepared any bill incorporating his views. In an address, in 1876, to the Bankers' Association, entitled by Mr. Spaulding "One hundred years of progress in the business of banking," he narrated at some length his connection with the bill which was ultimately introduced in the House in consequence of the recommendation of the Secretary. The report of the Secretary was referred, he said, to the subcommittee of Ways and Means, of which he was chairman, the other members being Mr. Hooper, of Massachusetts, and Mr. Corning, of New York. Mr. Chase, when asked for a bill incorporating his recommendations, requested Mr. Spaulding to prepare one. Such a bill, Mr. Spaulding said, was prepared by him during the holidays in December, 1861, of which 200 hundred copies were printed for the use of the Committee of Ways and Means. In proof of which, Mr. Spaulding then quoted from the report of Hon. J. J. Knox, comptroller in the year 1876, a statement incorporated therein, which corroborated his assertion. At this meeting of the Bankers' Association Mr. Spaulding exhibited a

copy of the bill to his audience. When he published his History of the Legal Tender Paper Money, etc., he repeated this statement as to his connection with the framing of the bill, and added that he then sent to Governor Cornell for a copy of the New York currency act. He further announced in this work that he had still in his possession several copies of his bill. Other matters intervened in Congress, and he did not introduce the bill in the House, but left it for future consideration. The suspension of the banks on the 28th of December made their notes uncurrent, and under these circumstances Mr. Spaulding not only dropped the national-bank question, but he introduced into the House of Representatives the legal-tender act, which for a time monopolized his attention. This act became a law February 25, 1862.

MR. HOOPER INTRODUCES A BILL.

The banking bill being thus hung up in the Ways and Means Committee, the matter was taken up by Mr. Hooper, and July 11, 1862, he introduced in the House a bill to provide for a "National currency secured by a pledge of United States stocks," etc. On the 16th, after meeting with some opposition, he secured the passage of a resolution authorizing the printing of 5,000 copies of his bill. It is this bill with which any study of the national banking system has to do, for although the law which was passed the next February after this was known as the Sherman act, it was in fact the Hooper bill with a few changes, and it was probably introduced in the Senate, because Thaddeus Stevens, of the Ways and Means Committee, had reported on the 3d of August in the House against the bill.

It may indeed be said to have been in substance the Spaulding bill as well, for Spaulding says in his "History of the Legal Tender Paper Money," etc., that the bill introduced by Mr. Sherman was his own bill, except that it had been altered and amended in several important particulars. There were 61 sections in the original bill and 65 in the Sherman act. Of these, the sixty-second, which was an added section, is the most remarkable. The original bill was drawn with the intention of bringing the emission of national currency under national control, and provision therefore was made for the organization under the law of institutions which desired to emit notes according to its terms. Section 62 provides that any existing bank at the date of the passage of the act, being the holder of United States bonds to the extent of 50 per cent of its stock, could transfer the bonds or any part of them to the Treasurer and receive circulating notes to the extent of 80 per cent of the amount of the bonds.

SILAS M. STILWELL TAKES A HAND.

There is in the Boston Public Library a pamphlet entitled "Private History of the Origin and Purpose of the National Banking Law and System of Organized Credits for the United States, with Comments by the Author. New York, 1879." Attached to the volume is a manuscript letter addressed to Robert C. Winthrop, in which Mr. Silas M. Stilwell says that "this letter"—the pamphlet is in the form of a letter—"was called for by Mr. Buckner, in consequence of claims of authorship by several persons since the death of Mr. Chase."

The pamphlet itself is dated "New York City, April 20, 1879," and is addressed to Hon. A. H. Buckner, chairman of the Committee on Banking and Currency, Washington, D. C.

The author, after a few paragraphs by way of introduction, says: "As a reply to your third question, 'Who is the author of the national banking law?' I send you a slip from the New York Graphic, which will also explain to you why, with a weight of years pressing upon me, I still continue to defend and advocate this great and unequaled credit system."

MR. JORDAN PREPARES A BILL.

[Special dispatch to the Graphic.]

WASHINGTON, *September 21, 1878.*

I called yesterday upon Edward Jordan, the confidential friend of Mr. Chase, late Chief Justice. When Mr. Chase became Secretary of the Treasury in 1861 he invited Mr. Jordan to become Solicitor of the Treasury. Mr. Jordan occupied this office and remained at the head of the law bureau of the Treasury until 1869. I had been told that Mr. Jordan was the author of the original bill introduced into Congress, under which the national banking system was organized. After a few words of introduction I asked him to give me the history of the origin of the national banking law. Said he, in reply: "Late in the year 1862, December, I am quite sure, Secretary Chase introduced me to Silas M. Stilwell, of New York City, asking that I would hear Mr. Stilwell's views in regard to a national system of banking to supersede the state banking system * * * . Mr. Stilwell spent two or three days in elaborating his views to me, as he had previously with Judge Chase, and concluded by submitting a draft or bill embodying them * * * I was directed by Judge Chase to prepare a bill to be submitted to the Committee of Ways and Means of the House of Representatives. In accordance with Judge Chase's directions, I prepared a bill, using Mr. Stilwell's materials."

NOTES EXPLANATORY OF THE SYSTEM.

Mr. Stilwell then goes on in the pamphlet, as follows: "Early in the winter of 1862 and 1863 I visited Washington," following which comes a long and confused

account of his relations with Mr. Chase and the advice which he gave him, in the course of which he refers to the legal-tender act in such a way as to show that he has post-dated his visit to Washington one year in this account. Perhaps in this he was misled by the date given by Mr. Jordan in the account in the Graphic, but so far as his own story is concerned the error is manifest. While it is obvious from his own language that he made this error of date, there is other evidence to be found that it is an error in a letter from Stilwell, dated at the Treasury Department, January 24, 1862, offering his services to James Gallatin as a correspondent.[a] In the course of this account he describes the preparation by himself of a pamphlet treating of the financial situation, at Mr. Chase's request, of which 30,000 copies were printed by the Public Printer for distribution. This doubtless was "Notes explanatory of the system of national finance and currency proposed by the Secretary of the Treasury. Washington 1861: Printed at the Government Printing Office." This pamphlet is attributed to Stilwell in "Appletons' Cyclopædia," and is evidently the one referred to in the St. Paul Press of December 29, 1861, in the following: "A pamphlet has appeared from the Government Printing Office, understood to be from the pen of Silas M. Stilwell, of New York, which discusses Secretary Chase's plan for a system of national finance and currency, and the additional propositions now made by the Secretary to enable all existing banks and associations to become national institutions. In the opinion of the writer

[a] MS. Chase Letters, Library of Congress.

* * * the Secretary's plan will furnish for the nation all the credit and money that a prudent administration ought to require to conclude the war with an honorable peace * * *."

The pamphlet develops the idea that the use of national stocks as a fund for the security of a national currency will at the same time create a demand for them on the part of investors, touches slightly on the argument of the value of the uniform currency which would thereby accrue, and sets forth the advantages to be obtained from the banks being available as government depositories. The patriotism of readers is also invoked in an appeal "To banks, bank officers, stockholders, farmers, mechanics, manufacturers, merchants, laborers, lawyers, physicians, clergymen, and every other class and calling * * * ." Apparently Mr. Stilwell felt called upon to publish still another paper on this subject, for there is such a publication in the Boston Public Library, bound in with "Notes Explanatory," etc. It is dated January 6, 1862, and winds up with the statement that "The object of this paper is to make plain what many did not understand from the pamphlet." This was apparently to show that "the object to be obtained by this system of banking is to provide a plan that will create a demand for bonds and thus fund, in this way, as many demand notes as possible." While it could not be expected that the banks should at once become heavy purchasers, the author thought that when they did others would follow them, probably fast enough to furnish the treasury with $250,000,000.

THE STILWELL, JORDAN, SPAULDING, HOOPER BILL.

That Mr. Stilwell's services were invoked by the Treasury Department for work in connection with the preparation of a bill to carry out the intentions of the Secretary is beyond dispute, and in all probability his work is to be found incorporated in the bill known as the Hooper bill. If Mr. Stilwell's date is carried back one year, it necessarily carries back Mr. Jordan's with it, since they cooperated, and this again agrees with the date that Mr. Spaulding sets for the time devoted by himself to the preparation of the bill. When Mr. Spaulding asserts that he prepared the bill, he does not necessarily mean that he himself did all the work in that connection. He means merely that he was devoting his attention to the subject, guiding and controlling others in shaping the proposed legislation according to his views, and it is quite reasonable for him to assume as his work that in which other government officials participated and in which he merely cooperated as an overseer and director. His claim for participation in the authorship of the bill is not inconsistent with his permitting it to slumber in the hands of the subcommittee after he discovered that Thaddeus Stevens, chairman of the committee, was utterly opposed to it. It is not unlikely then that the Stilwell bill, the Jordan bill, the Spaulding bill, the Hooper bill, and the Sherman bill are practically one and the same thing. In that event we should have one who was familiar with the state legislation under which an experience of a similar character to the proposed scheme had been successfully prosecuted, furnishing from this knowledge the necessary outlines for

a bill; another representing the Treasury Department, safeguarding the provisions affecting the custody of the bonds and the control of the emissions; and a third conversant with the methods of the House, watching the details to see that they were in sympathy with the customs of that body. Mr. Spaulding records his abandonment of the bill in its early stages in the committee. It was then taken up by Mr. Hooper, and notwithstanding Mr. Spaulding's statement that it embodied Hooper's views, it is not unlikely, now that he had become sponsor for the bill, that he added to the work of so many hands a few finishing touches of his own. The amendments and changes afterwards made that mark the differences between the House and the Senate bill were most of them unquestionably made at the demand of Mr. Sherman, as we shall see later.

OPPOSITION OF BANKS.

If we recur to Mr. Chase's words when he submitted to Congress his plan for nationalizing the banks of the country, we shall see that he entertained "the hope that the plan now submitted if adopted" * * * will "impart such value and stability to government securities that it will not be difficult to obtain the additional loans required for the service of the current and the succeeding year at fixed and reasonable rates * * *." This was, of course, dependent upon the immediate passage of the proposed legislation and the voluntary acceptance by existing banks of the opportunity to reorganize under its terms. The opposition in Congress was so powerful that it was evident that nothing could be accom-

plished for the time being, and as this opposition was doubtless inspired by the banks the corollary was evident that the banks themselves would not cooperate with the Secretary in securing for him the benefits which he thought would accrue from their support of his project. The "bond market," which up to this point had been a conspicuous feature of his advocacy of the scheme, though not necessarily his principal motive, became from that time of less importance. The strength of the "uniform currency" motive was also dependent upon the cooperation of the banks, and the acceptance by the country of the greenbacks furnished a partial equivalent for such a currency, with, however, the disadvantage that the inflation of the currency by the Government produced a corresponding inflation on the part of the banks.

MORE LETTERS OF ADVICE AND SYMPATHY.

The submission of Mr. Chase's scheme to the public brought forth comments and advice from many quarters. Mr. James Brown, who had already written once from New York, wrote from Brooklyn on the 1st of January, 1862,[a] and inclosed a plan prepared by him for the emission of government notes. The proposed plan involved a reserve fund and a sinking fund, and was accompanied with an argument against Mr. Chase's scheme.

S. Sturgis & Sons, of Chicago, on the 20th of January, 1862,[a] said that demand treasury notes were what were needed. The people of the Northwest were with the Government and against the banks. They suggested that

[a] MS. Chase Letters, Library of Congress.

all banks of issue should be taxed 10 per cent per annum on their circulation, and they called attention to the fact that government credit was suffering by delay.

The Chicago Tribune of February 5, 1862, quoted from the special correspondence of R. J. Walker in the New York Times, the following exposition of the great evil of inflation arising from the uncontrolled power of banks to emit bills. "Necessity and sound policy alike demand the adoption of Mr. Chase's well-guarded, free banking system, as a means of averting impending peril * * *." "The first inquiry of the reader, doubtless, is how will the adoption of such a plan sustain the public credit? I answer, by restricting the amount of paper currency afloat, keeping it entirely within control of the Government, correcting the present great redundancy and inflation, and checking the disastrous competition between local banks on the one hand and the Treasury on the other, in the matter of putting afloat their respective paper * * *."

E. Littell, Boston, February 7, 1862,[a] in the belief that the hope of banks absorbing stocks as security for notes to be furnished by the Government had now passed, recurred to his plan for creating a circulation of gold drafts for interest money on the various mints, the same to be drawn in denominational sums for $5, $10, etc.

Enoch T. Carson, of Cincinnati, wrote February 9, 1862,[a] expressing sympathy with Mr. Chase, and saying that the people were with him, believing that it was a fight between the Government and the banks, and that Mr. Chase represented the people in the struggle.

[a] MS. Chase Letters, Library of Congress.

On the 10th of February, 1862, Mr. Chase addressed a letter to Hon. William P. Fessenden,[a] in which he said that while it was desirable to keep down the interest charges by furnishing at that time as many government notes in small denominations as were needed for circulation, still he thought that the real relief from the situation was to be found in a banking system organized on the basis of specie payments, secured by deposits of government bonds and suitable legislation * * *. "In my judgment," he says, "a 5 per cent bond, capable of being used as a basis of circulation, would be worth more in the market than a 6 per cent bond without that capacity."

Joseph Medill, of the "Chicago Tribune," wrote again, May 30, 1862,[b] urging the emission by the Government of small bills and the severe taxation of banks.

John C. Hamilton, June 27, 1862,[b] addressed Mr. Chase from the Saratoga Springs, calling attention to the opposition of the superintendent of the banking department of the State of New York to Mr. Chase's scheme, because of the loss that would take place on the sale of state stocks held by the state banks as security for their issues. He hoped that Mr. Chase's plan might ignore the state banks by a general authorization under national authority.

October 7, 1862,[c] Mr. Chase wrote to John Bigelow inclosing a copy of the proposed bill and explaining its probable effects. He called attention to the fact that the

[a] Treasury Department files, correspondence from the Treasury Department to individual Members of Congress, May 14, 1859, to February 28, 1866.

[b] MS. Chase papers, Pennsylvania Historical Society.

[c] An Account of the Private Life and Public Services of Salmon Portland Chase, Cincinnati, 1874, by Robert Bruce Warden, pp. 502–503.

circulation of government notes had "not displaced that of banks as yet, but on the contrary had actually caused it to increase." His plan would "bring to the support of the public credit the whole banking interest of the country." It would open "a gradually enlarged market for the securities of the Government, and thus sustain their credit at the highest point." If the war was prosecuted actively and expenditures were economical "the adoption of the system would furnish all the money that is needed at reasonable rates * * *."

November 13, 1862, Hon. Samuel Hooper inclosed two articles from the London Globe, written by Mr. Latham, the governor of the Bank of England,[a] which he had caused to be republished because they gave the most candid and clear statement he had seen of the condition of the currency here and the character of the measure proposed. The articles themselves are unfortunately missing, but they can be easily identified with two communications to the Boston Evening Transcript, one November 8, the other November 14, 1862. They touch but lightly on the subject that we are specially considering.

Morris Ketchum wrote from New York, November 29, 1862,[a] urging Mr. Chase to go ahead with his banking plan, which would provide a resting place for a large amount of government securities and furnish the country with a stable and uniform currency. Great caution would, however, be necessary in making the change, and it would be well to relieve the money market by a further

[a] MS. Chase papers, Pennsylvania Historical Society.

emission of greenbacks. Without an easy money market the change would be accompanied by great distress. It should of course, as far as possible, be voluntary.

FINANCE REPORT DECEMBER, 1862.

In December, 1862, Mr. Chase issued his second annual report as Secretary of the Treasury. He set forth, in clear language, the necessity of abandoning a gold basis, forced upon him by the increasing discount of loans which he sought to negotiate. The absolute unreliability of the bank notes in circulation was disclosed in impressive language, and he dwelt upon the fact that owing to their freedom from control the banks were enabled to meet every demand upon them by new emissions of notes, thus increasing their depreciation with every loan that might be effected through them. This had led him to prefer to make use of government notes alone. While thus expressing preference for these notes over those of the banks, he repeated the opinion expressed in his previous report that a circulation furnished by the Government, but issued by banking associations organized under a general act of Congress was to be preferred to either. Such a circulation, uniform in general characteristics and amply secured as to prompt convertibility by national bonds deposited in the Treasury, would unite, in his judgment, more elements of soundness and utility than can be combined in any other.

"The central idea," he said, "of the proposed measure is the establishment of one sound uniform circulation of equal value throughout the country upon the foundation of national credit combined with private capital.

The organization proposed would require within a very few years, for deposit as security for circulation, bonds of the United States to an amount not less than $250,000,000 * * *. Should Congress see fit to restrict the privilege of deposit to the bonds known as five-twenties, authorized by the act of the last session, the demand would soon promptly absorb all of that description already issued * * *."

He then went on to say that it was not in immediate results that the value of this support would be only or chiefly seen. He looked for a future support of the prices of bonds through the continuous demand thus created for them.

"Another advantage to be derived from such associations would be found in the convenient agencies which they would furnish for the deposit of public moneys," and he added that inasmuch as their bills would be received for all dues, except customs, such agencies would "constitute the best and safest depositories of the revenue derived from such receipts."

"Little direct aid," he said, "is, however, to be expected from this plan during the present, nor very much perhaps during the next year * * * ." "The immediate advantage to the Government will be found in the market created for bonds, and the support thereby given to the national credit. The more general advantages which have been described must attend the gradual organization of banking associations when the national circulation furnished to them shall become the established and sole national circulation of the country."

HOW THE REPORT WAS RECEIVED.

Hon. Samuel H. Walley wrote Mr. Chase from Boston December 9, 1862,[a] saying that this banking scheme will give no aid now, but would not be objectionable with some alterations.

On the 10th of December, 1862,[b] Mr. Chase wrote John J. Cisco, asking him if he could not procure from leading financial gentlemen who favored the national banking plan some expression of their views which should be addressed to the members of the financial committees. "I am firmly convinced," he said, "that the adoption or nonadoption of this plan is the turning point of credit or discredit. If it be adopted, the finances can be placed on a firm and satisfactory footing. If it be not adopted, the finances are delivered rudderless to be tossed helplessly on the gulf of irredeemable currency by conflicting gusts of opinion until the inevitable wreck." Just one month after this letter was sent there was a meeting of financiers at the residence of Mr. Cisco, possibly the outcome of it. Apparently it did not accomplish much, for the "New York Journal of Commerce" of Monday, the 12th of January, satirically observed that the meeting "might have been a success as a social gathering, but we fear has not contributed largely toward the replenishing of the treasury."

December 13, 1862,[c] Mr. Chase wrote Joseph Medill, saying: "Give us the plan and I can borrow. Without

[a] MS. Chase Letters, Library of Congress.

[b] MS. Chase papers, Pennsylvania Historical Society.

[c] MS. Chase papers, Pennsylvania Historical Society. A part of this letter is printed in Schucker's Life of Chase.

it I can not borrow except at enormous sacrifices. Give me the plan and I can carry on the Government to the close of the war, I hope, successfully. Without it there may be success, but I don't see it * * *. "

In a letter to William C. Bryant, bearing date the same day,[a] Mr. Chase said that his support of a national system of banking association might be justified under the circumstances even if the plan were intrinsically defective. "The support of the demand which will be created," he said, "by the enactment of the plan for bonds will enable the Government to borrow at reasonable rates. Without that I see nothing less than the Serbonian bog before me for our finances."

Hon. Robert J. Walker, on the 19th of December, 1862, issued a brochure, entitled "Review of our Finances and of the Report of Hon. S. P. Chase." In this he said: "We are upon the verge of ruin. We are hanging over the gulf of an irredeemable paper system. * * * Never did any representative assembly encounter so fearful a responsibility as the present Congress. * * * What can Congress do? They can consider at once this great financial question uninterrupted by any other measure until there shall have been action complete and decisive. * * * If my words be too bold, let them be attributed to my profound conviction that the American Union is in extreme peril and that its downfall involves the final catastrophe of our country and of our race. * * * The bill organizing the new system presented in Congress by Mr. Hooper last summer is

[a] A Biography of William Cullen Bryant; with Extracts from his Private Correspondence. New York, 1883. Vol. II, p. 185.

drawn with great ability, and it is much to be deplored that (with some amendments) it had not then become a law, when it would have been much more easily set in operation and would have saved hundreds of millions of dollars to the Government."

On the 23d of December Mr. Chase wrote Hon. Thaddeus Stevens, chairman of the Committee of Ways and Means,[a] urging the favorable consideration of the banking act. "Under existing legislation," he added, "it is next to impossible to collect the internal revenue in lawful money of the United States; and I see no ground for belief that the funds necessary for the pay of the army and the prosecution of the war can be in any way provided without the support to public credit expected from that measure."

MR. CHASE SEEKS FOR HELP.

Oberholtzer states that Mr. Chase actively sought the support of Jay Cooke for this bill,[b] and quotes from Cooke's "Memoirs" a statement that he and his brother Henry after carefully examining a copy of the bill, which had been submitted to their consideration about this time, decided to support the measure. They thereupon began a campaign with the press and made personal appeals to Senators and Representatives.

January 7, 1863,[c] while the bill was still pending, Mr. Chase wrote a letter to Mr. Fessenden relating to financial

[a] Treasury Department files. Letters from the department to committees of Congress. February 1, 1860, to May 20, 1864.

[b] Jay Cooke, Financier of the Civil War, by Ellis Paxson Oberholtzer. Philadelphia, 1907, Vol. I, pp. 331, 332.

[c] Treasury Department, letters from the Department to committees of Congress, February 1, 1860, to May 20, 1864.

legislation in which he said, "No measure, in my judgment, will meet the necessities of the occasion and prove adequate to the provision of the great sums required for the suppression of the rebellion which does not include a firm support to public credit through the establishment of a uniform national circulation secured by bonds of the United States."

On the 17th of January, 1863,[a] President Lincoln took advantage of a message to Congress on financial matters to add a few words in favor of "a uniform currency in which taxes, subscriptions to loans, and all other dues, as well as all private dues" might be paid. Such a currency could be furnished by banking associations organized under a general act of Congress. The pledge of United States bonds to secure circulation would facilitate loans. He urged the early passage of the bill.

PRELIMINARY DISCUSSION IN THE HOUSE.

Mr. Hooper had, as we have already seen, introduced in the House July 11, 1862, "A bill to provide a national currency secured by pledge of United States stocks," etc. On the 8th of January, 1863, he secured unanimous consent to introduce "A bill to provide a national currency secured by pledge of United States stocks and to provide for the circulation and redemption thereof." The details of the new bill are not known, but it is quite probable that parliamentary reasons dictated this movement. One clew to the bill that was probably presented at that time is to be found in the title to the pamphlet containing the

[a] Richardson's Messages, Vol. 6, pp. 149, 150.

Hooper bill. It contains the following words: "Submitted to Congress in December, 1861, and December, 1862." There was no separate discussion of the bill at that time but it was taken up in the House by several of the speakers in connection with the "bill to provide ways and means," etc.

Mr. Morrill[a] opposed the bill It was directed against the country banks. It would force the state bonds already deposited against circulation on the market in competition with United States securities.

Mr. Gurley,[b] of Ohio, thought the legal-tender notes furnished a uniform currency and regarded as serious the throwing on the market of the bonds now deposited as security for the circulation of state banks.

If Mr. Sherman was the sponsor for the bill in the Senate, Mr. Hooper was its backer in the House. While he had neither the influence nor the power of Mr. Sherman, he was greatly respected as a man of conservative opinions, whose judgment upon financial matters was likely to be sound, and Mr. Chase was fortunate in securing him as the principal advocate for the passage of the bill.

Mr. Hooper[c] said: "If this banking law is rejected the Government has no control over the depreciation of the currency, for just in proportion as the amount of the United States notes is increased the bank circulation, which is redeemable in those notes, will be augmented, and both will depreciate together."

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[a] Congressional Globe, January 13, 1863, pp. 295–297.
[b] Congressional Globe, January 15, 1863, pp 341, 342.
[c] Congressional Globe, January 19, 1863, pp. 384–387.

The value of the banks as fiscal agents, where deposits could be made, against which drafts could be drawn by the Treasury in the ordinary course of business was dwelt upon. The uncontrollable nature of the currency situation now furnished the rebellion one of its main supports. "The revolted States," he said, "could never have inaugurated this rebellion without the currency of state bank notes for circulation, and we must deprive them hereafter of this ready aid for treason."

"Another of the important benefits which the Government would derive from this system of national banks would be the amount of United States stock which would be absorbed to be used for its circulation." The sale to the banks would affect the whole market, and it would be sound policy to avail of it.

Mr Walker[a] was not ready to give his assent to such a system. He thought the Secretary of the Treasury had admitted that it would not do much good.[b]

Mr. Lovejoy[c] believed in taxing banks out of existence.

Hon. Samuel H. Walley wrote from Boston,[d] on the 17th of January, 1863, disclaiming hostility to the banking act and saying that there would be perfect willingness to give it a trial if the bill were amended in some respects. "Whenever our affairs are in better condition," he says, "you will find no difficulty in summoning aid to your bank scheme."

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[a] Congressional Globe, January 19, 1863, p 392.

[b] A reference to a speech of Mr Walker's prepared at a later date for delivery in the House, in which he supported the bill, will be found chronologically arranged under date of May, 1863

[c] Congressional Globe, January 22, 1863, p. 460.

[d] MS. Chase Letters, Library of Congress.

January 22, 1863, Mr. Chase wrote Charles A. Hecksher of New York,[a] to the effect that the trouble in the situation was the divorce of the Government from control of the currency. If the currency were under regulation of the Government and were receivable for taxes, then the banking associations could become depositories. "I have no doubt," he added, "that the bonds would be so strengthened that loans would be comparatively easy and the great evils of an exceedingly redundant currency averted * * *."

SENATOR SHERMAN'S AID SOLICITED.

January 23, 1863, Henry D. Cooke wrote[b] "in the strictest confidence" to Jay Cooke, "Governor C. expressed the greatest anxiety that Sherman should take hold of his bank bill and asked me to use my influence with him to do so. I had an interview with S. last evening and again to-day. Sherman has not positively promised to champion the bill, but from his talk to-day I think he will do it. I am sure he will do so if Governor C. will consent to two slight modifications, viz, restricting the charter (which at present is perpetual) to twenty years, to prevent inflation limiting the amount of circulation to be issued and apportion it among the States. I will get a definite answer from Sherman to-morrow, and meanwhile am to see the governor about S's proposed modifications." Since all of these limitations and amendments

[a] The Life and Public Services of Salmon Portland Chase, by J. W. Schuckers. New York, 1874, pp. 384, 385.

[b] Oberholtzer's Cooke, the Financier of the Civil War, Vol. I, pp. 332, 333.

are to be found in the act as passed, it is evident that Mr. Sherman carried his point.

On the 27th of January, 1863,[a] Mr. Chase addressed a letter to William P. Mellen, then at Cincinnati, in which, speaking of the passage of the bills, he said, "With it, success is possible and probable. Without it, failure is probable, if not certain."

January 30, 1863,[b] Hon. W. P. Fessenden wrote as chairman of the Senate Finance committee to Secretary Chase asking him to give his views to the committee on the House bill "to provide ways and means to support the Government," with the request that he consider the bill as a distinct measure, entirely disconnected from the bill submitted by Mr. Sherman "to provide a national currency." Mr. Chase replied February 2,[c] saying that it was, in his judgment, "impracticable to frame any measure which will work satisfactorily in the absence of proper regulation of the currency."

Mr. Chase received from Horace Greeley on the 30th of January, 1863,[d] a letter approving his plan for banking and national securities. Mr. Greeley added that he did not believe any measure could be adopted by Congress that could help the credit of the Government at any tolerable standard if the war were not ended within the next six months. He believed we were on the very brink of a

[a] Schucker's Life of Chase, p. 286.

[b] Treasury Department Files. Senate Committee on Finance to Treasury Department, 1862. W. P. Fessenden, chairman, etc.

[c] Treasury Department. Correspondence from the Treasury Department to committees of Congress, February 1, 1860, to May 20, 1864.

[d] MS. Chase papers, Pennsylvania Historical Society.

financial collapse and a copperhead revolution, and that we must have crushing victories or a ruinous peace very soon.

February 5, 1863,[a] Mr. Chase, in a letter to T. C. Day, showed signs of impatience at the prolonged opposition of the banks. He wrote as follows: "The tax on bank notes will, I think, be imposed. The demand for it from the people is, happily, too strong to be resisted. With this and the banking system, which will root out the heterogeneous local banks, and give us a uniform currency. * * * I hope we shall get along * * *."

The Philadelphia Bulletin summed up the advantages to ensue from the passage of the banking bill, on the 7th of February, 1863, in the following order: (1) A uniform currency; (2) fiscal agencies in every city; (3) the support of government credit by sales of bonds to banks and to the people; (4) the facilities thereby afforded for returning to specie payments; (5) the curtailment of the circulation of the present bank notes.

MR. SHERMAN TAKES HOLD IN EARNEST.

February 7,[a] John Sherman wrote saying that it was vital that the bank bill be taken up before the supply bill, saying: "I will not guarantee the passage of the bank bill if Fessenden insists upon first passing the supply bill."

February 10, 1863[a] Thomas W. Olcott wrote from the Mechanics and Farmers Bank, Albany, saying that a friend had said to him in a letter that Governor Chase's bank bill with Mr. Olcott's amendments, is likely to become a law. The writer then went on: "With the proposed amendments

[a] MS. Chase papers, Pennsylvania Historical Society.

it will be a good working bill, decidedly more encouraging to the formation of new associations, and the more so from leaving all existing institutions undisturbed, thus securing a general and cordial wish for success." He then prophesied that the bank act could not afford relief to the treasury for a long time. Nor would there be enough new organizations to act speedily as agents and depositories.

The Sherman act had four more sections than the Hooper bill, some of these referred to the subject specifically mentioned by Mr. Olcott, when he said that with the proposed amendments the bill would be a good one. Other than this there was no change in the bill to which the language used by him could have applied. In a letter of later date Mr. Olcott refers to the fact that his name had been suggested by Mr. Chase to Mr. Lincoln, for comptroller of the currency.

On February 12,[a] after Sherman's speech, which was delivered February 10th, Henry D. Cooke wrote: "It will be a great triumph, Jay, and one to which we have contributed more than any other living men. The bank bill had been repudiated by the House, and was without a sponsor in the Senate, and was thus virtually dead and buried when I induced Sherman to take hold of it, and we went to work with the newspapers."

Whether Henry Cooke's influence over Senator Sherman had the full force which he attributed to it in the foregoing letter, or whether in common with the Cookes themselves; with other bankers; with legislators in both houses, and with the nation at large, the impressive

[a] Oberholtzer's, Jay Cooke, pp. 332–333.

nature of Mr. Chase's demand for the passage of this bill, the support that he received from the President and the entire Cabinet, and the chaotic condition of the finances out of which it was hoped that through this bill some reform could be effected, were the true causes for Mr. Sherman's conversion, can not be stated with certainty. That Mr. Cooke's opinion, representing as he did important banking interests which had heretofore been opposed to the bill, should have had some weight with Mr. Sherman is extremely probable. That Mr. Sherman's advocacy of the bill was coincident with Cooke's claim is also clear. That Mr. Sherman's speech was powerful and effective is undoubtedly true, and to him more perhaps than to any other person Mr. Chase owed the successful passage of the bill at this time.

THE DEBATE.

Mr. Sherman advocated the bill because it would furnish a uniform currency;[a] because it would create a market for bonds; because through the sale of bonds thus effected the nation would be consolidated; because it would furnish depositories for public funds, and because the bills could be used in payment of taxes. Greenbacks he considered not suitable for the desired uniform currency, because they were liable to inflation. The more of them that were put out, the greater had been the emissions of state banks. "The consequence has been," he said, "that while the Government has been issuing its paper money, some of the banks have also been inflating the

[a] Congressional Globe, February 10, 1863, p. 843, et seq.

currency by issuing paper money on the basis of United States money * * *. There is no way to check this * * * except by one uniform currency system." What benefit, he asked, does the United States obtain from this system? "The first benefit is, there is a market furnished for the bonds of the United States. Then banks must furnish 10 per cent more of the bonds of the United States than they receive in paper money. This at once if the full amount is issued, which I do not anticipate within a year, will furnish a market for $330,000,000 of bonds, and we know very well by the laws of supply and demand that where a demand is made for a given article the demand extends far beyond the particular want." He thought the passage of the bill would "promote a sentiment of nationality," the want of which was one of the evils of the times.

The fact that the banks could be made use of as depositories was another advantage to be derived from the passage of the bill. Now "every collector is bound to take what paper money he gets, and hold it in his hands subject to all risks. He dare not under our laws deposit it with banks. He runs all the risk of fire and accident, and all the money he may have on hand he is responsible for. He has no safe where he can deposit it. The United States Government does not furnish a safe." Under the new laws the banks could receive and care for such deposits.

Senator Pomeroy said[a] that in Kansas they had no currency of their own, and in consequence they sometimes

[a] Congressional Globe, February 10, 1863, p. 850.

had to pay for exchange to pay debts in the East "2 per cent, and 5 per cent." He would vote for it because it would give more uniformity of currency.

Senator Henderson would, if he had the power, blot out of existence every bank in the country,[a] and would not himself turn to a new system of banks for relief, but he would vote for this plan, at this time, because it was supported by the Secretary of the Treasury and the entire Cabinet as a measure essential to give character and standing to the bonds of the United States.

Senator Doolittle thought that the practical way to subdue the inflation then going on was for the Government "to dominate, master, and control the currency of this country."[b] He would "sustain the measure because the friends of the administration look upon it as one of those measures which will enable the Government to go on under the great and pressing necessities of the hour."

The bill had been held up in the House by opposition from quarters which the supporters of the bill could not overcome, but the passage of the similar bill introduced in the Senate by Sherman brought the subject before the Representatives in a new form, and the same pressure that had secured the support of Sherman operated successfully in the House. The debate there was brief.

FINAL DEBATE IN THE HOUSE.

Hon. E. G. Spaulding[c] would vote for the bill, although he did not look for any considerable relief therefrom for

[a] Congressional Globe, February 10, 1863, p. 851.
[b] Congressional Globe, February 11, 1863, p. 882.
[c] Congressional Globe, February 19, 1863, p. 1114.

the next two or three years. If wisely administered, he thought the system would be of great benefit to the people and a reliable support to the Government in the future.

In the course of the debate it was plain that the character of the financial situation was such that some who had hitherto felt the necessity of supporting the state banks, realized that opposition to the Secretary of the Treasury at this time was full of meaning, and might bring disastrous consequences. For instance, Reuben E. Fenton,[a] of New York, said that in giving his support to the bill he should run counter to his previous convictions.

Stephen Baker,[b] of New York, pointed out that it was not claimed that the passage of the bill would be of any service to the Treasury within the space of two years.

John B. Alley, of Massachusetts,[c] thought that a uniform currency would be an inestimable blessing scarcely less valuable than the preservation of the Union itself. The present tendency of inflation was toward repudiation. Any bill that would check this was not hostile to the banks.

THE HOOPER BILL AND THE SHERMAN ACT.

The passage of the bill by the House on the 20th of February, 1863, was followed by the President's approval on the 25th, and there was now an opportunity to test how far the system would in actual operation assist the Secre-

[a] Congressional Globe, February 19, 1863, p. 1117.
[b] Congressional Globe, February 19, 1863, p. 1141.
[c] Congressional Globe, February 20, 1863, p. 1146.

tary in handling the great financial problems, the solution of which was then forced upon him.

We may as well pause here for a moment in order to take note of the changes which had been made in the bill since its original introduction in the House.

In the Hooper bill, a method was specified by which any five or more persons could form an association which had the privilege of using a common seal, which could adopt a name by which it could have succession and could complain and defend in any court of law or equity as fully as natural persons. Thus, and thus only, could associations be formed, no special provision being made for the nationalization of state banks. The functions and privileges conferred by the act upon the associations organized under it were in all essentials those of corporations, but the associations were nowhere declared to be corporate bodies. The declaration, however, that they could "sue and be sued" "as fully as natural persons" involved this idea.

In section 30 there was a provision for winding up associations and the expression "all the corporate powers shall cease" is there used. In section 37 the phrase "any other incorporated company" is used in connection with the word association. In a few of the sections the associations are spoken of as "banks and banking associations," but as a rule they are called simply "associations," and it is obvious that whoever drafted the bill intended to apply that name to them and to exclude any other designation.

TAXATION.

In the matter of taxation the Hooper bill contemplated taxing the circulation of state banks and associations, on

the basis of 2 per cent per annum payable in equal semi-annual installments. The tax on the associations was not laid on the circulation itself, but on the bonds deposited to secure the circulation, and inasmuch as only 90 per cent of the market value of the bonds could be furnished in bills, and in no event could that 90 per cent exceed the par value of the bonds, it is evident that there might have been a discrimination against the associations in this method of taxation. It was a curious way to undertake to raise the tax, and was suggested probably because the treasurer could simply hold back the amount when he paid the interest money on the bonds.

The Senate was the stronghold of the banks. It would have been impossible to have secured the passage of any bill in that body which seemed in any way to be unjust toward the state banks. The capitalists who owned these banks had rallied to the support of the Government, and their aid in the summer of 1861 had been of incalculable service. It is not surprising to find, therefore, in the Sherman act, that the clause in the Hooper bill which brought the state banks under the 2 per cent per annum tax on circulation had disappeared, while the associations were still held liable for such a tax, the same being laid this time directly on the circulation and not on the bonds deposited to secure it. In this form, with the associations subject to the circulation tax and the state banks exempt, the law went into effect. This exemption did not last, however, for more than a week. On the 3d of March, 1863, it was provided in the seventh section of an "Act to provide ways and means for the support of the Govern-

ment," that all banks should pay 1 per cent per annum for each half year upon the average amount of their circulation. From this tax, however, there was a sliding scale of exemptions, running from 90 per cent of the circulation in the case of banks having not over $100,000 of capital to 25 per cent in the case of the capital being over $2,000,000. On the circulation thus exempt a tax was laid of one-half of 1 per cent for each half year. This rate of taxation was made applicable to associations organized under the "Act to provide a national currency secured by a pledge of United States bonds," etc., approved February 25, 1863, in order that government taxation of associations and state banks might be equalized. A further tax of one-eighth of 1 per cent for each half year was laid in the act of March 3, 1863, on deposits in the hands of banks, associations, individuals, or corporations.

There is no hint as to the origin of the proposition for the individual liability of stockholders. The clause imposing this liability is not to be found in the Hooper bill. It was added to the twelfth section of the Sherman act.

SHERMAN'S CHANGES.

The suggestions mentioned by Henry D. Cooke in his letter to his brother Jay, that Sherman wished the amount of the possible emissions of national currency limited, the term of the certificate of the associations fixed, and the right to establish associations distributed among the States with suitable apportionment, found embodiment in the new bill in the seventeenth section, which was an entirely new and intrusive section. On the other hand, the

thirty-first section in the Hooper bill, which related to the voluntary winding up of associations and provided under certain circumstances that they might receive back the deposited bonds when 90 per cent of the circulation had been redeemed, was stricken out and has no place in the later bill. Providence, St. Louis, and Chicago were added to the cities specifically mentioned in the bill.

SECTIONS DROPPED AND SECTIONS ADDED.

There were other changes of minor significance, but these represent the more important differences between the Hooper bill and the Sherman act, so far as the text of the original bill can be used for comparison. There were, however, 61 sections in the Hooper bill. In the Sherman act a new section had been added and one of the sections of the Hooper bill was dropped out. The greater part of the sections of the two bills correspond in number and in the subject treated in the respective sections. The last section of the Hooper bill, which was perfunctory, was not renewed, but in its place a paragraph was inserted providing for the nationalization of such existing state banks as should desire to avail themselves of the privilege. The sixty-second section has been referred to heretofore. It made provision for the emission of national currency to state banks under certain conditions, and the sixty-third and sixty-fourth sections dealt with the subject of banks of this description. The sixty-fifth and last section was a reservation on the part of Congress to alter, amend, or repeal the act at any time.

The opposition of the state banks had been continuous from the outset. When Hooper secured the passage of the order to print, it was realized that the only immediate result to come from that order was the distribution of copies of the bill among an interested public who might read, ponder, and perhaps be convinced. Through the convictions of their constituents a realizing sense of the opportunity which was being lost might be brought home to Congressmen.

THE MILITARY SITUATION INFLUENCES VOTES.

The first draft of the bill was probably submitted to the Ways and Means Committee in January, 1862, and was hung up there in the subcommittee until Mr. Hooper took the matter up in July and introduced in the House his bill, presumably much the same as the one already in the hands of the subcommittee. Even then some obstructions were thrown in the way of the passage of the routine order to print, and the subsequent opposition of Thaddeus Stevens prevented further progress in that body. The summer of 1862 had greatly changed the views of the people as to the period which might be set for the duration of the war. The failure of McClellan's peninsular campaign, followed by the disasters in the immediate vicinity of Washington, had brought with them a realizing sense of the magnitude of the task which our Government had undertaken, and had taught the people that the disadvantage of operating upon the circumference of a circle greatly reduced the natural advantages derived from our superior control of men and materials. How long it would take for this supe-

riority to effect its work could not be foretold, but the hopefulness of a speedy termination of the war had given place to grim determination to prosecute it to the bitter end. The battle of Antietam had settled for the time being the question of an invasion of Pennsylvania, and the changeable campaigns, under different generals, which resulted in Fredericksburg and Chancellorsville, with the alternate hopes and fears aroused by the situation, was being conducted when the national bank act was brought to the consideration of Congress through its introduction in the Senate by Mr. Sherman. His brilliant advocacy of its merits and the ultimatum pronounced by Mr. Chase that without its passage he was powerless had led to a reluctant adoption in the Senate. How Mr. Chase's ultimatum was interpreted will be seen from the following extract from the New York World of January 12, 1863: "It is now given out that he [Chase] will certainly retire from the Cabinet unless his banking scheme is indorsed by Congress." This was stating the case stronger perhaps than the circumstances warranted, but at any rate it is an indication of the situation.

OPINIONS AFTER THE PASSAGE OF THE BILL.

In following the debate in Congress, as we have done, down to the passage of the bill, we have reached a point which relieves us of the necessity of further examination of the correspondence of Mr. Chase in our search for hints as to the evolution of the system, if we accept the passage of the original bill as the true birth of the system, but it may be profitable to analyze the opinions of a few selected

correspondents and authors in order to see what was the effect of passing events upon their opinions as to the motives which had led to the adoption of the bill. So, also, Mr. Chase's retrospective views as set forth in his replies to letters of congratulation, sympathy, and advice may contribute something to aid us in forming an opinion on this subject. Moreover, the amendatory act of 1864 repealed the original bill, thus furnishing a new birthday for the system, and perhaps compelling us to follow the matter a little further than we already have done.

After the passage of the bill, Mr. Chase wrote, on February 21, 1863, to Hon. Benjamin Eggleston [a] setting down the benefits to accrue from the bill in the following order: "The strengthening of the public credit; the strengthening of the bond of union; a safe currency for the masses; a uniform money, with some of which in his pockets a traveler who leaves San Francisco can pay for his breakfast on the Isthmus, for his dinner in New York, and for his supper in Liverpool."

A copy of a letter from Samuel Hooper to Governor Andrew of Massachusetts, dated Boston, March 25, 1863, is to be found among the Chase papers in possession of the Pennsylvania Historical Society. Mr. Hooper urges the governor to secure legislation facilitating the conversion of Massachusetts banks into national banks, saying that Mr. Chase does not overstate the importance of the national banking act to the General Government.

March 30, 1863, Mr. Chase wrote Messrs. W. H. Aspinwall and J. M. Forbes,[a] who were in London at that time,

[a] MS. Chase papers, Pennsylvania Historical Society.

having authority to negotiate a loan for the Government, saying that he had received applications for the authorization of associations under the national banking law from most of the principal towns in the loyal States, including Portland on the Atlantic and San Francisco on the Pacific. "You will readily perceive from this statement," he added, "that I do not regard it as a matter of very great importance that you use the authority given you to negotiate a loan of $50,000,000 in Europe. It is my undoubting belief that the 6 per cent bonds of the United States are now worth intrinsically a large premium in gold."

In May, 1863, Hon. Amasa Walker published in the Banker's Magazine[a] some remarks which he had prepared for a speech in the House of Representatives, but which he was prevented from delivering through the application of the previous question. After having shown that the proposed currency was full of imperfections, that at best it was a "feeble and imperfect currency," he, nevertheless, says he prefers it "to that which it is designed to supersede; because it will be uniformly current everywhere; because there is a tax on it; because it will reduce the danger of counterfeits; because it will aid the Government in financial operations, and because it will identify the interests of our moneyed institutions with the credit of the Government."

It has already been stated that the understanding was that interest on United States bonds was to be paid in gold, and that the principal of the long-term bonds

[a] Banker's Magazine, vol. 12 (new series), pp. 833–43.

stood upon the same ground, but that current obligations would be met in currency. On the 5th of August, 1863, George Harrington, Assistant Treasurer, officially announced to Fiske & Hatch, New York, that such was the policy of the Government and authorized them to sell five-twenties on that basis. This letter was published by E. G. Spaulding in his "History of the Legal Tender Paper Money," etc.

MR. CHASE SPEAKS IN OHIO AND IN INDIANA.

In October, 1863, Mr. Chase went home to vote in the election held in Ohio, Tuesday, October 13. He made numerous speeches from the platform of his car during his trip, and at Cincinnati he delivered a long address. A delegation sent from Indianapolis persuaded him to visit that place, and there, too, he made a speech of some importance. All of these speeches were reported. From the Cincinnati and Indianapolis speeches I quote a few passages.[a]

The Cincinnati address was delivered at Mozart Hall, and in it his main theme was a uniform currency. He said: "I have been doing something in my humble way to promote the welfare and secure the permanence of the reconstituted Republic. It seemed to me that if labor was henceforth to have fair wages, it was highly desirable to have a medium of payment, a substantial, permanent, and uniform medium, so that labor should not be cheated of its rewards. So I set myself to work to devise a uniform currency for the whole country."

[a] From a pamphlet in Harvard University Library. Apparently from some newspaper.

In the address at Indianapolis he discussed briefly the emission of greenbacks and the bestowal upon them of the legal-tender function, and then went on as follows: "But to perpetuate the national currency and to avoid the disturbance of capital already invested in banks under state laws, another step was necessary. I therefore recommended and Congress adopted the national banking system. I think the capital of the country employed in furnishing circulation will be organized under this system and that, when in full operation, we shall have no note circulating in this country which does not bear the national imprint and guaranty. When this is done, and only when this is done, labor will be sure to have its just reward." In this speech Mr. Chase did not refer to the creation of a market for bonds or to the improvement of the credit of the Government as a motive for the foundation of the national banks.

DIFFERENT VIEWS AS TO THE PROGRESS OF THE SYSTEM.

On the 2d of November, Samuel Hooper wrote Mr. Chase from Boston[a] inclosing with comments, a slip cut from the London Examiner, which he thought might interest Mr. Chase as expressing the opinions of an intelligent and experienced writer on financial subjects. He closed his letter with the following expression of his disappointment at the situation: "I do not like having only small banks organized under the new law, and regret that no large banks are yet organized in the principal commercial cities to be made depositories of public money, as it seems to me very desirable; though I doubt

[a] MS. Chase papers, Pennsylvania Historical Society.

if any large banks here or at New York would receive deposits of the public money on the conditions that I understand to be prescribed by the Treasury Department * * * ."

November 19, 1863, Mr. Chase wrote "Mr. Harrington"[a] (presumably George Harrington, his assistant), saying: "The national banking scheme is working well. About 130 banks have been organized. The organization of one in San Francisco is expected, and the one in New Orleans is making good progress. It will not be long before they exist in all parts of this country, and then it will be an easy matter to bring all the present capital of the state banks into it."

FINANCE REPORT DECEMBER, 1863.

In the finance report, submitted in December, 1863, Mr. Chase referred to what he had already said about the national banking system and added: "Except through such a system no sure way is seen to the complete and permanent establishment of a uniform currency; and a system of national banking fair to all and secure for all can only be safely and firmly established by making use of a portion of the national debt as security for the national currency * * *." Further on the Secretary said that he had "heretofore expressed the opinion that whatever may be the true degree in which the currency of the country is affected by a bank-note circulation issued without national sanction and by corporations independent of national authority and not receivable for

[a] MS. Chase papers, Pennsylvania Historical Society.

national dues, it can not be questioned that in some similar degree the negotiation of national loans must be prejudiced and their value to the national finances diminished. This opinion is confirmed by observation and experience. Impelled therefore by a profound sense of the present necessity of a national currency to the successful prosecution of the war against rebellion, and of its utility at all times in protecting labor, cheapening exchanges, facilitating travel, and increasing the safety of all business transactions, and at the same time unwilling to urge even salutary and necessary reforms in such a way as needlessly to disturb existing conditions or impair the value of existing investments of capital, the Secretary recommended in two successive reports the authorization of national banking associations, to which the capital of the corporations now issuing notes for circulation might be transferred, with advantage to the parties in interest as well as to the general public. The sanction of Congress was given to these views at the last session, and the simple assurance thus given that henceforth the country is to have a national currency secured by a pledge of national bonds, and the belief that this currency will at no distant day take the place of the heterogeneous corporate currency which has hitherto filled the channels of circulation at once inspired faith in the securities of the Government and more than any other one cause enabled the Secretary to provide for the prompt payment of the soldiers and the public creditors."

"If the policy thus indicated shall be fairly and judicially pursued and proper measures adopted to induce the conversion at the earliest practicable period of the bank corporations of the States into national banking associations and of the corporate circulation into national currency, the Secretary believes, and, as he thinks, not without good ground, that all the money needed for prompt payment of troops and for the most vigorous prosecution of the war can be obtained by loan on reasonable terms * * *."

In this report the number of banks organized under the act was stated to have been 66 on the 1st of October, 1863. We have seen that Mr. Chase reported to Mr. Harrington on the 19th of November that there were 130. Small as their numbers were in comparison with the number of banks organized under state laws, the insignificance of the number was not the real source for the disappointment which Mr. Chase must then have felt at the slow movement of his scheme. "I do not like having only small banks organized under the law," wrote Mr. Hooper in his letter of the 2d of November, and when he said that, he sounded the true cause for regret and alarm. It was easy enough to secure a few banks of numerical designations in the principal cities, but their capitalization was not large, and the men who furnished that capital were not leading financiers.

ATTACK OF THE NEW YORK CLEARING HOUSE.

The new organizations were attacked on this and other grounds by a committee of the New York clearing house on the 28th of November, 1863. This committee was composed of John E. Williams, president of the Metro-

politan Bank of New York, and John L. Everitt. The preparation of the report was attributed to Mr. Williams. It was submitted to the clearing house at a meeting on the 5th of December, 1863, and was accepted and ordered to be printed and distributed. The following clause of the report is of interest in this connection:[a] "It must have been observed by all that the applications for banks under this law, though numerous, are for small amounts, many of only $50,000 or $60,000 capital. Your committee know of very few which are designed to do a legitimate banking business. There may be others, but from the small amount of capital of more than a hundred of them, and the localities of several, your committee strongly suspect them of being intended for banks of circulation only, not regular banks for deposits and discounts, but what are known in our Western States by the expressive term 'Wild cat banks.'" Mr. Chase had written Mr. Harrington on the 19th of November, as we have just seen, to the effect that when the system had been established throughout the country it would be "an easy matter to bring all the present capital of the state banks into it." How this was to be accomplished he did not, at this time, suggest.

TAXATION URGED.

The war cry of Medill in the Chicago Tribune had been "Tax the banks out of existence." Lovejoy echoed it in the House of Representatives. Mr. Chandler in the Senate, said, "I would vote an absolute prohibition tax. I

[a] Report on the National Bank Currency Act; its Defects and its Effects. New York, 1863, p. 7.

would take possession of it [the circulation] during the continuance of this war, and say to the banks, 'You shall not occupy it until peace is restored.'" In July, 1861, Mr. Chase included bank notes with ale, beer, and tobacco, as suitable objects for taxation under the then existing circumstances. In his report in December, 1861, he had said, "A moderate tax on bank notes will relieve the nation from the competition of local circulation." On the 5th of February, 1863, he wrote: "The tax on bank notes will, I think, be imposed. The demand for it from the people is happily too strong to be resisted." It is possible that Mr. Chase referred in this letter to the fact that in the Sherman act the provision made in the Hooper bill for the taxation of the circulation of state banks was stricken out, and he may have had in mind the possible restoration of this clause. The strength of his language, however, would seem to indicate the taxation out of existence of that circulation, a measure which came in 1866.

January 2, 1864, Mr. J. W. Schuckers, Mr. Chase's secretary, wrote to Mr. Hooper inclosing certain memoranda, which Secretary Chase had dictated.[a] The Secretary had gone home, and Mr. Schuckers forwarded the dictation without waiting to incorporate it into a letter to be signed by Mr. Chase. He (Mr. Chase) said: "In my judgment sufficient stress has not been laid in arguments for the national banking system, upon the absolute necessity of a currency in which the transactions of the Government

[a] Treasury Department files, correspondence from the department to individual Members of Congress, May 14, 1859, to February 28, 1866. MS. Chase papers, Pennsylvania Historical Society, but without date and without signature—in a letter book.

as well as those of the people can be conducted." He thought if such a system had been inaugurated promptly it would have been entirely practicable to have negotiated all the loans to carry on the war without suspending specie payments.

January 23, 1864,[a] writing to Thomas W. Olcott, the Secretary said that the banking act was not regarded by him as perfect, but he was clear that the "currency of a State should be supplied only by the nation, either directly or by institutions organized under national law."

On the 30th Mr. Chase wrote to Joseph Medill[a] saying: "I have recommended the tax you favor."

February 4, 1864, writing to Pliny Freeman, of New York, Mr. Chase said:[b] "If I can succeed in giving a permanent, uniform currency to the country, and carry the nation financially through the war without failure, I shall be satisfied, even 'though obliged to forego much that I think desirable to the solidity and perfection of the financial system.'"

In March, 1864, the following outspoken opinion is to be found in a letter from Mr. Chase to Hon. Edward D. Mansfield:[c] "We must also have an exclusive national currency. The state bank currency must be driven out of existence." Writing to Charles A. Hecksher, March 7, 1864,[a] Mr. Chase intimated that his main purpose in urging the passage of the national banking act was to secure a uniform currency. He said: "Then I seized

[a] MS. Chase papers, Pennsylvania Historical Society.

[b] Warden's Life of Chase, p. 571.

[c] MS. Chase papers, Pennsylvania Historical Society, the day of the month not filled in.

the occasion to introduce and establish a national currency * * *. To aid in accomplishing these objects, I called the national banking system into existence."

PRAISE FOR HOOPER AND R. J. WALKER.

March 22, 1864, Mr. Chase wrote J. T. Trowbridge as follows:[a] "I had already urged on Congress the adoption of a system of national currency to be furnished by associations organized under national authority and secured by the pledge of national securities. Congress was not yet prepared for so decided a measure as this * * *."

"A majority of both the House and the Senate Financial Committees were incredulous or hostile. Only Mr. Hooper, of Massachusetts, a gentleman whose sound judgment and large knowledge of financial subjects gave great and deserved weight to his opinions, encouraged me by open support; and the most he could do was to obtain leave to bring in a bill authorizing a national banking system and providing for a national currency, and procure an order for the printing of it. Out of Congress Robert J. Walker, distinguished by his brilliant administration of the treasury when himself Secretary and by his great ability, gave the plan the sanction of his approval."

March 31, 1864, the Secretary wrote the Rev. Joshua Levitt,[a] New York, saying: "If the judicious and patriotic men of business to whom you refer would devote their energies to inducing Congress to tax the local bank

[a] MS. Chase papers, Pennsylvania Historical Society.

circulation out of existence, they would be much better employed than in suggesting large sacrifices of government securities in order to create vacuums to be filled by the expansion of the circulation."

AN EXCLUSIVE NATIONAL CURRENCY.

Writing to Horace Greeley, April 6, 1864, Mr. Chase said:[a] "It is in vain for me to strive to maintain the public credit, and still more vain to think of keeping down the price of gold unless we can have an exclusive national currency, and it is vain to hope for an exclusive national currency unless we can have such amendments of the National Banking System as will facilitate the conversion of the state banks into national banks * * *."

April 15, 1864, the Secretary addressed a letter to the President[a] in which he said: "Next to taxation and retrenchment a uniform national currency is most important. This can be accomplished only through the passage of the national banking law now before congress * * *."

May 9, 1864, Mr. Chase wrote to S. DeWitt Bloodgood,[b] New York, saying: "The national banking system is a necessary and, indeed, an inevitable step in our financial progress to a more perfect political union. Had such a system existed specie payments would never have been stopped."

May 27, 1864, Mr. Chase,[a] writing to Richard Smith, esq., Gazette, Cincinnati, said: "I think then that the state bank currency should be withdrawn and that no

[a] MS. Chase papers, Pennsylvania Historical Society.
[b] Schucker's Life of Chase, pp. 402, 403.

currency should be allowed except the national. So far as this consists of legal tenders, their issue and circulation are a direct gain to the country by a saving of interest, and if not issued in excess the benefit would be unmixed. So far as it consists of national banks, it is recommended by the indispensable necessity of such institutions to make a uniform currency permanent, by the benefits derived from the support afforded by them to the credit of the Government and by the convenience and utility of these institutions to the Government."

A NEW BIRTHDAY FOR THE SYSTEM.

It has been already suggested that the repeal of the Sherman act in 1864 might be considered as a new birthday for the national banking system. The act by which this was accomplished bore the same title as the Sherman act and was passed June 3, 1864. By its terms the Sherman act was absolutely repealed except that organizations under that act enjoyed all the rights and were subject to all the duties imposed by the new act. In the new act the associations were declared to be bodies corporate and power was given them to use a corporate seal. While the bulk of the Sherman act was made use of in the new act, the whole of it was rearranged and much new matter was introduced. There are in the Treasury Department two blank books containing printed copies of the Sherman act cut up into sections and pasted in according to the proposed rearrangement, together with sections from the "Act to provide ways and means." Accompanying these are

manuscript drafts of proposed additions, alterations, and amendments where the changes were too great to designate upon the pasted slips themselves. The whole reveals the great amount of labor involved in bringing forth this act.

HOSTILE TAXATION OF STATE BANKS.

The subject of taxes which throughout this discussion was evidently one which was full of possible contention was treated in much the same manner as it was left by Congress in the spring of the previous year. The act dealt with associations alone. One-half of 1 per cent on the circulation was to be paid each half year; one-fourth of 1 per cent was to be paid each half year on the average amount of deposits, and, in addition, one-fourth of 1 per cent each half year on the amount of the capital stock beyond the amount invested in government bonds. Shares in such associations were made taxable as personal property under state authority at the place where the association was located and not elsewhere.

The legislation on this subject up to this time did not bring about the voluntary nationalization of the state banks which was hoped for and was expected from it, but on the 3d of March, 1865, an act was passed which sounded the death knell of the state banks, in so far as they were dependent upon their circulation for their existence. A tax of 10 per cent was laid upon the amount of notes of state banks which should be paid out by any bank or banking association after the 1st day of July, 1866. This gave the state banks a little over a year to

get under cover. The necessity for this legislation becomes apparent if we consider that up to the 15th of November, 1864, there had been organized only 584 banks, having a capital of $81,961,450. Less than a year afterwards, on the 1st of October, 1865, there were 1,566 associations, capitalized at $276,219,450.

MR. CHASE WRITES W. C. BRYANT.

In seeking for the predominant motive in Mr. Chase's mind in connection with the evolution and development of the national-banking system we have culled from his correspondence while Secretary of the Treasury a number of quotations which, as a rule, seem to indicate that the securing of a uniform currency was the uppermost thought at this time. This is especially prominent after the passage of the Sherman act. Curiously enough the last letter that we have from his pen bearing upon the subject while he was still Secretary, which was written to William C. Bryant, is capable of another interpretation.[a] The letter was dated June 30, 1864, after Mr. Chase had resigned, but before he had received notice of the acceptance of his resignation. "My grand object has been," he said, "first to provide for the vast demands of the war, and second the substitution of a national bank-note currency for a state bank-note currency, and through the last, resumption of specie payments, and so permanence and strength in the financial order * * *." At first thought this might seem to be a recognition of the predominance in Mr. Chase's mind of the function of the

[a] Schucker's Life of Chase, p. 405.

banking system in providing a permanent market for national securities, but more mature consideration will probably lead to the conclusion that the Secretary was speaking of the wider field of his strenuous labors in meeting the obligations of the Government, rather than of any particular method by which this might have been accomplished. Even the furnishing a uniform currency was "second" to providing funds to pay the army, and the navy, and to meet current expenditures.

Passing from the contemporaneous correspondence of the Secretary it may be of some interest to note the impressions concerning the subject that we are considering made upon a few authors who have in a general way devoted some attention to the affairs of this period or have directed their investigations specially to the career of Mr. Chase.

THE CONCLUSIONS OF AUTHORS.

Horace White in "Money and Banking,"[a] says: "In 1861, Mr. Chase, the Secretary of the Treasury, conceived the plan of making the bank-note circulation of the country a means of enlarging the sales of government securities." * * * "Among the advantages to be gained," he said, "would be uniformity of style, uniformity of goodness, and a large demand for government securities. Of these three, the last was not the most important, although it then seemed so."

Albert Bushnell Hart, in his life of Chase,[b] said: "In Chase's mind a great advantage of the scheme was the

[a] Money and Banking, by Horace White, p. 372.
[b] Hart's Life of Chase, pp. 282, 283.

demand thus created for government bonds, and the consequent relief of legal-tender notes; and it was not his fault that during his administration little progress was made in the actual accepting of United States securities as a basis for notes. A second consideration which Chase had always in mind was the national need of a currency at once uniform and safe."

George Walker, in an article entitled "The advantages of the national-banking system of the United States now in force," published in the Banker's Magazine for March, 1868, quotes from Mr. Chase's reports,[a] then says: "It has been alleged that his leading motive was to obtain a market for $200,000,000 or more of bonds, which would be required as a basis for the new circulation, but a careful perusal of his reports of 1861 and 1862 does not justify this conclusion."

A letter from Jay Cooke was published in the New York Tribune, October 23, 1867, under title of "The origin of the national-banking system." It contains but little to help us in settling priority of motives for the adoption of the national banks, but the following testimony to the efficiency of the system is perhaps worthy of our consideration: "I am glad of this opportunity of bearing witness to the fact that not only in negotiating the first $514,000,000 loan of five-twenties, but more particularly in the subsequent negotiation of the $830,000,000 of seven-thirties the country was largely indebted to the national banks for the promptness with which the National Treasury was supplied with sorely needed funds * * *."

[a] Banker's Magazine, Vol. XXII, pp. 681, 715.

THE ORDER OF THE MOTIVES.

The completion of this review of the material at our command calls for an analysis of what has gone before, and a statement of the conclusion that has been reached as to the predominant motive for the urgency with which Mr. Chase insisted that Congress should pass the national banking act. The various reports of the Secretary, his speeches, his correspondence, the discussion in Congress, the newspaper articles, and the contributions to magazines all agree that the following were the benefits to be derived from the passage of the bills: A uniform currency controllable in amount by the General Government, and receivable for taxes by the Treasury; a market for a large block of government securities, and an improvement of the national credit in consequence of the permanence of the demand for the securities required for use under the act; the creation of a large number of institutions under national control widely distributed over the country, which could not only serve as depositories for government funds, and thus relieve the collectors of internal revenue and other government officials having custody of such funds from the anomalous situation in which they were placed under the existing law, but which could also act as the fiscal agents of the Treasury, and could receive subscriptions to loans and distribute bonds to subscribers; and, finally, the stimulation of the patriotism of the people which would arise from their closer touch with national affairs in consequence of their direct interest in government securities brought about by the popular distribution of the loans.

In the rehearsal of the arguments advanced in favor of the establishment of the national banking system, I have placed first the one in which the benefits to be derived from a uniform and controllable national currency were advanced. The uniformity of the currency was the point specially dwelt upon, but it was plain that uniformity could be accomplished by the Government itself through its own notes. The advantage that a currency furnished by associations under government control would have over notes issued directly by the Government lay in the fact that while the former were to be secured by the deposit of national securities and were to be always subject to jealous oversight and control, the latter were, to quote the language of Mr. Chase, subject to "the temptation, especially great in times of pressure and danger, to issue notes without adequate provision for redemption." What that temptation amounted to no man knew better than he. The Government could furnish such a currency, but a national currency at once uniform and controllable could only be obtained through the national banking law.

As we run through the various extracts from documents, papers, and correspondence which have been submitted to our consideration, we find Mr. Chase always the advocate of a uniform currency. The opinion expressed in his inaugural address as governor of Ohio in 1856 has the clear ring of conviction. Even in 1861, in enumerating the advantages of the proposed system, he does not put the improvement of the bond market first—"uniformity in currency," "uniformity in security," "safeguard against depreciation," "protection of travelers from loss

by exchange," "a large demand for government securities," with certain other consequent advantages, and, finally, the "increased security of the Union springing from the common interest in its preservation, created by the distribution of its stocks to associations throughout the country * * *."

GENERAL IMPRESSION THAT THE BOND MARKET LEADS.

The impression that has since prevailed, and was perhaps most prominent in the thoughts of the general observer then, was that the immediate relief to be expected in the bond market was the argument which influenced opinions and votes. There are, indeed, among Mr. Chase's letters several which might be quoted in support of this view. It must be borne in mind, however, in forming an opinion from these that Mr. Chase may have been at the time developing a special phase of the subject and not undertaking to discuss the entire question on its merits. So in Congress the argument used by a speaker may have been that which he thought would appeal to the public, but not that which really produced his own convictions.

Among the expressions of opinion as to the real advantages to be derived from the adoption of the system there has been quoted one from Horace White to the effect that as between the several advantages rehearsed by the Secretary the demand for government securities was not the most important, although it then seemed so. Yet Mr. White, while distinctly stating that the bond market was not entitled to be regarded as the predominant motive, goes on to say that, as a matter of fact, it actually

was. This thought is expressed as follows: "The expectation that the scheme would be a great financial aid to the Government was the real motive for its adoption."

If we turn to the speech of Mr. Sherman in the Senate, we find that while he first enumerates the advantages of uniform currency he follows it up, asking the question, "What benefit does the United States obtain from this system?" And to this question he replies, "The first benefit is, there is a market furnished for the bonds of the United States." This statement that the market is the first benefit is significant and corroborates Mr. White's view

THE PREDOMINANT MOTIVE IN MR. CHASE'S MIND.

The language of Mr. Chase's reports relieves him from responsibility for Mr. Sherman's utterances. Whatever support of this sort was to come was future and distant. The uniformity of the currency, first advocated in 1856; placed first in the series of advantages named in the report of 1861; and denominated to be "the central idea of the proposed measure" in the report of 1861, is over and over again stated in Mr. Chase's correspondence as the great thing to be gained by the adoption of the system. The "enlarged demand for bonds" as time went on became of minor importance through the diminution of the relative size of the amount required by the banks when compared with the total of the government debt, but the permanent effect of this demand upon the market and the prop that would thus be given to the government credit became more and more

prominent in the appeals of the advocates of the system. The combination of all the advantages to be obtained from the adoption of Mr. Chase's scheme formed a powerful argument. The various benefits were cumulative, and while it is possible to separate the chain and assign a relative measure of strength to the different links, yet it must be remembered that it was their union and cohesion that furnished the strength which secured the adoption of the bill.

PROGRESSIVE BELIEF THAT THE SYSTEM STRENGTHENS THE UNION.

At the outset it was stated that search for the predominant motive which prompted the adoption of the system must be made in the mental operations of the man then in charge of the Treasury Department. The investigation which has been conducted includes within its scope the official reports, the speeches, and the correspondence of Mr. Chase so far as the same are at our command to-day, and to all intents and purposes the conclusion which has been reached upon this point is of such a nature that this review of the situation might be considered as completing our work. There are, however, one or two points which have disclosed themselves in the course of the investigation which seem worthy of mention, but for which no suitable place was found in the narrative. Hooper, for instance, coupled the uniform currency with the fiscal agencies and said the benefits of these are "of far more importance than the more direct benefit of creating a permanent demand for a large amount of government bonds."

The need of depositories was plain, but by thus coupling this with the uniform currency on one side of the scales, while the benefit of the bond market was placed on the other, he cut us off from citing his valuable name as one of those who placed the uniform currency over the bond market as a motive, although in all probability he actually thought so.

Another point which is worthy of notice is the steady growth of the belief in the protection which would be afforded from the future revolt of any portion of the Union against the General Government by a national banking system. Mr. Chase, in his report in 1861, claimed that increased security of that sort would come "from the common interest in the preservation of the Union created by the distribution of national stocks to associations throughout the country * * *." This argument appealed to many others and cropped out from time to time. Thus Hooper, in a speech in the House of Representatives, January 19, 1863, said: "It is justly said by an eminent financial writer, who was once distinguished as the head of the Treasury Department [probably Robert J. Walker], that this abdication by the Government of its power to control the currency of the country has furnished one of the main supports of this rebellion." Hooper then added the following impressive statement: "The revolted States could never have inaugurated rebellion without the currency of state-bank notes for circulation * * *."

Mr. Sherman expressed the point tersely when he said that he thought the passage of the bill would "promote a sentiment of nationality," the want of which was one of

the evils of the times. Amasa Walker covered the same ground when he said, "It will identify the interests of our moneyed institutions with the credit of the Government." In further support of the opinion on the point of the security to be derived from a distribution of the securities of the Government, which gradually developed and gained strength as time went by and people pondered over these problems, we may close our references on this subject by quoting from the New York Tribune of February 3, 1863, the following strong expressions: "Considered, however, as a permanent plan, there can be no stronger argument in its favor than that it tends to strengthen the Union by closely interwoven ties of common interest in the permanence and credit of the National Government." These remarks upon the value to the General Government of a system of banks emitting a uniform currency, subject to national control, in the way of protection against future outbreaks, owing to the difficulty which would arise in financing them, have but little bearing on the evolution of the system, but the growth of belief in the truth of this proposition is a matter of considerable interest.

In conclusion, then, we may repeat that the prevailing motive which dominated Mr. Chase throughout the struggle was the desire to secure a uniform currency which should be more controllable than would be government notes emitted for the same purpose. His method of obtaining this currency brought with it the benefit to the market for bonds, the securing of depositories and fiscal agents, and, above all, the guaranty that in the future there should be no banks capable of furnishing credit to revolting States.

Appendix A.

THE HOOPER BILL.

A BILL To provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by Congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the Comptroller of the Currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, by and with the advice and consent of the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the Secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of Comptroller during a vacancy in such office and during his absence or inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and

classified by the Secretary of the Treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment the Comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible freeholders as sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office; and he shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act. The Deputy Comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars.

SEC. 2. *And be it further enacted*, That the Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall devise a seal with suitable inscriptions for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the Comptroller of the Currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the Comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the Comp-

troller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

SEC. 3. *And be it further enacted*, That there shall be assigned to the Comptroller of the Currency by the Secretary of the Treasury suitable rooms in the Treasury building for conducting the business of the Currency Bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the Comptroller to deposit and safely keep all the plates and other valuable things belonging to his department; and the Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business, the expense of which shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 4. *And be it further enacted*, That the term "United States bonds," as used in this act, shall be construed to mean all coupon and registered bonds now issued, or that may hereafter be issued, on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*. That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five.

SEC. 6. *And be it further enacted*, That persons uniting to form such an association shall, under their hands and seals, make a certificate which shall specify—

First. The name assumed by such association.

Second. The place where its operations of discount and deposit are to be carried on; designating the State, Territory, or district, and also the particular city, town, or village.

Third. The amount of its capital stock, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

Fifth. The time when such association shall commence, and when the same shall terminate.

Sixth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and the acknowledgment thereof certified under the seal of such court or notary, and shall be transmitted, together with a copy of the articles of association which shall have been adopted, to the Comptroller of the Currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the Comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

SEC. 7. *And be it further enacted*, That at least thirty per centum of the capital stock of such association shall

be paid in at the time of the commencement of its banking business, and the remainder of the capital stock of such association shall be paid in instalments of at least ten per centum each on the whole amount to which the association shall be limited, as frequently as one instalment at the end of each succeeding two months from the time of the commencement of its banking operations, until the whole of the capital stock shall be paid in.

SEC. 8. *And be it further enacted,* That if any shareholder, or his assignee, shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock held by such delinquent shareholder, at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city where the association is located, if the same be located in a city, and if not so located, then in a newspaper printed, or of general circulation, in the county where the same is located, to any person who will pay the highest price therefor, and not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the costs of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock may subsequently be sold as the directors may order.

SEC. 9. *And be it further enacted,* That whenever a certificate shall have been transmitted to the Comp-

troller of the Currency, as provided in the seventh section of this act, and the association transmitting the same shall notify the Comptroller that at least thirty per centum of its capital stock has been paid as aforesaid, and that such association has complied with all the provisions of this act required to be complied with before such association shall be authorized to commence the business of banking, and that such association is desirous of commencing such business, the Comptroller shall immediately proceed, in such manner as he shall by general rules prescribe, to examine the condition of such association; to ascertain especially the amount of money paid in on account of its capital stock; the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act to entitle it to engage in the business of banking; and shall cause to be made, and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the Comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

SEC. 10. *And be it further enacted*, That if, upon a careful examination of the facts so reported, and of any any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise,

it shall appear that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association a certificate under his hand and official seal, showing that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some daily newspaper, published in the State where such association is located, for at least sixty days next after the issuing thereof.

SEC. 11. *And be it further enacted*, That every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons, and may make by-laws, approved by the Comptroller of the Currency, not inconsistent with law or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in accordance with the provisions of this act; by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins, and bills of exchange; by loaning money on real and personal security

in the manner specified in their articles of association for the purposes authorized by this act, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place; and their usual business shall be transacted in banking offices located at the places specified respectively in its certificate of association, and not elsewhere.

SEC. 12. *And be it further enacted*, That the shares of associations formed under this act shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be prescribed in the articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient; but no such increase shall be valid until the increased capital shall be paid in and notice thereof shall have been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of

such increase of capital stock, and that the same has been duly paid to such association.

SEC. 14. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for loans made by such association, or for moneys due thereto.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association.

Such association shall not purchase or hold real estate in any other case for any other purpose than as specified in this section.

SEC. 15. *And be it further enacted.* That every association, after having complied with the provisions of this act preliminary to the commencement of banking business under its provisions, may transfer and deliver to the Treasurer of the United States any amount of United States bonds bearing an interest, which bonds shall be deposited with the Treasurer of the United States, and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act.

SEC. 16. *And be it further enacted*, That upon the making of any such transfer and delivery, the association making the same shall be entitled to receive from the Comptroller

of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding the par value thereof, if bearing interest at the rate of six per centum, or of equivalent United States bonds bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

SEC. 17. *And be it further enacted*, That, in order to furnish suitable notes for circulation, the Comptroller of the Currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and to be printed therefrom and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the banks and associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the Treasurer of the United States and issued under the provisions of this act, which statement shall be attested by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the treasury; and shall also express upon their face the promise of the association receiving the same, to pay on demand, attested by the signatures

of the president and cashier; and the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

SEC. 18. *And be it further enacted*, That the plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes, shall remain under his control and direction, and the expenses necessarily incurred, in executing the provisions of this act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the Treasury Department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for security of the same, the Treasurer of the United States is hereby authorized to reserve and retain one per centum on the amount of said bonds so deposited, at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the Secretary, and every bank, banking association, or corporation not organized under the provisions of this act, issuing notes calculated or intended to circulate as money, shall, on the first day of July next, and regularly on the first days of January and July thereafter, make and deliver to the Comptroller of the Currency a true and accurate return of the gross amount of notes issued by it. whether in circulation, or in its vaults, or on deposit elsewhere, specifying the amount of the several denominations; and shall pay to the Comptroller of the Currency, semi-annually and at the

time of making each return, in lawful money of the United States one per centum upon the gross amount of notes issued, according to such return; and in default of any such return, the bank, banking association, or corporation so failing to make return shall pay to the United States a penalty of two per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

SEC. 19. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice-president or cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on public debt; and no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

SEC. 20. *And be it further enacted*, That all transfers of United States bonds which shall be made by any bank or banking association as security for circulating notes under the provisions of this act, shall be made to the Treasurer of the United States, with a memorandum written or printed on the certificate of such bonds, and signed by the cashier

or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes delivered to such bank or association; and no tranfser of any such bonds by the Treasurer shall be deemed valid or of binding force and effect, unless sanctioned by the order or request of the Comptroller of the Currency upon the Treasurer. It shall be the duty of the Comptroller of the Currency to keep in his office a book in which shall be entered the name of every bank or banking association, from whose accounts such transfer of bonds is made by the Treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the Comptroller, immediately upon countersigning and entering the same, to advise by mail the bank or association, from whose account such transfer was made, the kind of bonds and the amount thereof so transferred.

SEC. 21. *And be it further enacted,* That it shall be the duty of the Comptroller of the Currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the Treasurer presented for his signature; and the Comptroller shall have at all times during office hours access to the books of the Treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the Treasurer shall have the like access

to the book above mentioned, kept by the Comptroller, during office hours, to ascertain the correctness of the entries in the same.

SEC. 22. *And be it further enacted*, That it shall be the duty of either the president or cashier of every banking association having stocks deposited in the office of the Treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of said department, and, if found correct, to execute to the said Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of such certificate. Such examination may be made by an agent of such bank or association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

SEC. 23. *And be it further enacted*, That every association issuing circulating notes under the provisions of this act shall make a quarterly report to the Comptroller of the Currency, commencing on the first day of the quarter of the year next succeeding the organization of such association, and continuing on the first days of each succeeding quarter in every year thereafter, which report shall be verified by the president and cashier, and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence. The report hereby required shall be in the form

prescribed by the Comptroller, and shall contain a true statement of the condition of the association making such report, before the transaction of any business on the morning of the day specified, next preceding the date of such report, in respect of the following items and particulars, to wit: Loans and discounts, overdrafts due from banks, amount due from the directors of the association, real estate, specie, cash items, stocks, bonds, and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, profits, amount due to banks, amount due to individuals and corporations other than banks, amount due the Treasurer of the United States, amount due to depositors on demand, amount due not included under either of the above heads. And it shall be the duty of the Comptroller to publish full abstracts of such reports together in two newspapers, to be designated by him for that purpose—one in the city of Washington and the other in the city of New York—exhibiting the items of capital, circulation, and deposits, specie and cash items, public securities and private securities; and the separate report of each association shall be published in a newspaper published in the place where such association is established, or, if there be no newspaper at such place, then in a newspaper published at the capital of the State, at the expense of the association making such report. In addition to the quarterly reports required by this section, every association located and doing business in the cities of Boston, New York, Philadelphia, Baltimore, Cincinnati, and New Orleans, and issuing circulating notes under the provisions of this act,

shall publish, or cause to be published, on the morning of the first Tuesday in each month, in a newspaper printed in the city in which the association making such report is located, to be designated by the Comptroller of the Currency, a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and discounts, specie, deposits, and circulation.

SEC. 24. *And be it further enacted*, That if any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested, in one package, by a notary public, unless the president, cashier, or teller of the association shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency; and after such default it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special

deposits: *Provided, however,* That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 25. *And be it further enacted,* That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, shall appoint a special agent, (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes, in the lawful money of the United States, when demanded as aforesaid, and report to the Comptroller the facts so ascertained; and if, from the reports so made, the Comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon the Comptroller shall immediately give notice in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at

the treasury of the United States; and the same shall be paid as presented, whereupon said Comptroller may, in his discretion, cancel an equal amount of bonds pledged by such association, equal at current market rates, not exceeding par, to the notes paid; and it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be cancelled; and for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

SEC. 26. *And be it further enacted*, That whenever the Comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association, to be sold at public auction in the city of New York, after giving

notice of such sale to such association, and also advertising the time and place of sale, with a pertinent description of the bonds to be offered for sale, in two or more newspapers published in the city of New York, for not less than ten days next preceding the day of sale.

SEC. 27. *And be it further enacted*, That the Comptroller of the Currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by private sale for less than the par nor less than the market value thereof at the time of sale: *And provided, further*, That no sales of any such stock, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in section twenty two of this act.

SEC. 28. *And be it further enacted*, That on becoming satisfied, as specified in section twenty-six of this act, that any such association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such

association, on such terms as the court shall direct, and such receiver shall pay over all moneys so made to the Treasurer of the United States, and also make report to the Comptroller of the Currency of all his acts and proceedings. The Comptroller shall thereupon cause notice to be given, by advertisement in one or more newspapers published in the city in which such association is located, if the same be in a city, and if not, then in one or more newspapers published in the county where the same is located, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof; and after the end of one year from the first publication of such notice, the Comptroller, after full provision shall have been first made for refunding to the United States any such deficiency as is mentioned in the twenty-seventh section of this act, shall make a ratable dividend of the moneys so paid over to him by such receiver on all such claims as may have been so proved or adjudicated in a court of competent jurisdiction, and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if anything, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however*, That if any such association against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such

association may, at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in the twenty-seventh section of this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceeding in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

SEC. 29. *And be it further enacted*, That the bonds transferred to the Treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the Comptroller of the Currency may give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which shall have been so transferred to the Treasurer by it; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid; and said Comptroller may direct the return of any of said bonds to the banking association which transferred the same, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That ninety

per centum of the current market value of the remaining bonds which shall have been transferred by the banking association offering to surrender such circulating notes shall be equal to the amount of all the circulating notes retained by such banking association: *And provided, further*, That there shall have been no failure by such association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall the Treasurer be required to surrender such bonds in fractional sums of less than one thousand dollars; and if, at any time after said bonds shall be deposited with the Treasurer of the United States, as aforesaid, the market or cash value shall be reduced, the Comptroller of the Treasury is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the Treasurer of the United States, as long as such depreciation continues.

SEC. 30. *And be it further enacted*, That whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such banking association shall be at the stock exchange in the city of New York for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other bonds of money, it shall be the duty of the Comptroller of the Currency to notify the Treasurer of the United States of such fact,

and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said Treasurer until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided*, That it shall be the duty of the Comptroller of the Currency, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States bonds, in the name of the Comptroller of the Currency, in trust for the respective associations by which the bonds on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated bonds at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on such pledged bonds shall thereafter be paid to such association on demand thereof.

SEC. 31. *And be it further enacted*, That whenever any such banking association, being desirous of relinquishing its banking business, shall have paid at least ninety per centum of its circulating notes, and shall have delivered the same to the Comptroller of the Currency to be cancelled, and shall have provided means and given security, to the satisfaction of the Comptroller, for the redemption of its outstanding notes of circulation at the place where such association is located, and shall have given notice thereof by advertisement for six consecutive months

in two newspapers of general circulation, published, one at the capital of the State in which such association shall be located, and one in the city, town, village, or county in which the same is located, if there be one published therein, it shall be lawful for the Comptroller to authorize and for the Treasurer of the United States to retransfer and deliver to such banking association all the bonds pledged by it; and thereupon all the corporate powers of such association, except such as shall be necessary to close up its affairs, shall cease.

SEC. 32. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any such banking association, and to deliver in place thereof to such association other blank circulating notes to an equal amount; and such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes in presence of three persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, and one by the Treasurer of the United States, under such regulations as the Secretary of the Treasury may prescribe; and in case such notes shall have been delivered to the Comptroller by an officer or agent of such association, then in the presence, also, of such officer or agent; and a certificate of such burning, signed by the parties so appointed, shall be made in the books of

the Comptroller, and a duplicate thereof given to such officer or agent.

SEC. 33. *And be it further enacted,* That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act; and any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not exceeding fifteen years, at the discretion of the court in which he shall be tried.

SEC. 34. *And be it further enacted,* That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the stock pledged by such banking association, as aforesaid, shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

SEC. 35. *And be it further enacted,* That the stockholders, collectively, of any such association shall at no time be liable to such association, either as principal debtors or sureties, or both, to an amount greater than

three-fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so liable, except to such amount and in such manner as shall be prescribed by the by-laws of such association, adopted by its stock-holders to regulate such liabilities.

SEC. 36. *And be it further enacted*, That the capital stock of any association formed under this act shall be divided into shares of one hundred dollars each, and shall be assignable on the books of the association in such manner as its by-laws shall prescribe; but no shareholder in any association under this act shall have power to sell or transfer any share held in his own right so long as he shall be liable, either as principal, debtor, surety, or otherwise, to the association for any debt which shall have become due and remain unpaid, nor in any case shall such shareholder be entitled to receive any dividend, interest, or profit on such shares so long as such liabilities shall continue, but all such dividends, interests, and profits shall be retained by the association, and applied to the discharge of such liabilities; and no stock shall be transferred without the consent of a majority of the directors while the holder thereof is thus indebted to the association.

SEC. 37. *And be it further enacted*, That no banking association shall take, as security for any loan or discount, a lien upon any part of its capital stock; but the same security, both in kind and amount, shall be required of shareholders as of other persons; and no such banking association shall be the purchaser or holder of any

portion of its capital stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, on security which, at the time, was deemed adequate to insure the payment of such debt, independent of any lien upon such stock; or in case of forfeiture of stock for the non-payment of instalments due thereon, and stock so purchased and acquired, shall in no case be held by such association so purchasing for a longer period of time than six months, if the same can, within that time, be sold for what the stock cost.

SEC. 38. *And be it further enacted*, That in all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such association shall act as proxy; and no stockholder whose liability is past due and unpaid shall be allowed to vote.

SEC. 39. *And be it further enacted*, That the affairs of every such association shall be managed by not less than five nor more than nine directors, one of whom shall be president of the association. Every director shall, during his whole term of service, be a citizen of the United States and a resident of the State in which such association is located. At least three-fourths of the directors shall have resided in the State in which such association is located one year next preceding their election as directors; and each director shall own, in his own right, at least one per centum of the capital

stock of such association up to two hundred thousand dollars, and the half of one per centum of its capital over two hundred thousand dollars. Each director shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, and that he is the bona fide owner, in his own right, of the shares of stock standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan obtained or debt owing to the association of which he is a director, which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency, and by him filed and preserved in his office.

SEC. 40. *And be it further enacted*, That the directors of any such association first elected shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually, on such day in the month of January as the stockholders of said association may prescribe; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director removing from the State, or ceasing to be the owner of the requisite amount of stock, shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors. The director so appointed shall hold his place until the next annual election; and if, from any

cause, an election of directors shall not be made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof having been given in a newspaper printed, or of general circulation, in the city, town, or county in which the association is located.

SEC. 41. *And be it further enacted*, That every such association shall at all times have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its outstanding notes of circulation and deposits; and whenever the amount of its outstanding notes of circulation and deposits shall exceed the above-named proportion for the space of twelve days, or whenever such lawful money of the United States shall at any time fall below the amount of twenty-five per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange, payable at sight, nor make any dividend of its profits, until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and lawful money of the United States shall be restored: *Provided, however*, That clearing house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing house holding and owning such certificates, and considered to be a part of the lawful money which such association is required to have, under the foregoing provisions of this section:

Provided, further, That any balance due to any association organized under this act in other places from any banking association in the cities of Boston, New York, Philadelphia, Baltimore, Cincinnati, or New Orleans, in good credit, subject to be drawn for at sight and available to redeem their circulating notes and deposits, may be deemed to be a part of the lawful money which such association in other places than the cities of Boston, New York, Philadelphia, Baltimore, Cincinnati, and New Orleans, are required to have by the foregoing provisions of this section to the extent of three-fifths of the said amount of twenty-five per centum required. And it shall be competent for the Comptroller of the Currency to notify any such association whose lawful money reserve, as aforesaid, shall fall below said proportion of twenty-five per centum, to make good such reserve, and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in the thirtieth section of this act.

SEC. 42. *And be it further enacted,* That no association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in, and remaining undiminished by losses or otherwise, except on the following accounts, that is to say:

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereto.

Fourth. On account of liabilities to its stockholders, for money paid in on capital stock, and dividends thereon.

SEC. 43. *And be it further enacted,* That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money, to be paid in on its capital stock, or to be used in its banking operations, or otherwise.

SEC. 44. *And be it further enacted,* That no association or any member thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends, loans to stockholders for a longer time than six months, or in any other manner, any portion of its capital; and if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts; and all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act.

SEC. 45. *And be it further enacted,* That the directors of every association shall, semi-annually, in the months of May and November, declare a dividend of so much of the

profits of such association as they shall judge expedient; and, on each dividend day, the cashier shall make, and verify by his oath, a full, clear, and accurate statement of the condition of the association, as it shall be on that day after declaring the dividend; which statement shall contain—

First. The amount of the capital stock actually paid in and then remaining, as the capital stock of such bank or association.

Secondly. The amount of the circulating notes of such bank or association then in circulation.

Thirdly. The greatest amount in circulation at any time since the making of the last previous statement, as shall have been exhibited by the weekly statements of the cashier, specifiying the times when the same occurred.

Fourthly. The amount of balances and debts of every kind due to other banks and banking associations.

Fifthly. The amount due to depositors.

Sixthly. The total amount of debts and liabilities of every description, and the greatest amount since the making of the last previous statement, specifiying the time when the same accrued.

Seventhly. The total amount of dividend declared on the day of making the statement.

Eighthly. The amount of lawful money of the United States belonging to the association, and in its possession at the time of making the statement.

Ninthly. The amount subject to be drawn at sight, in lawful money of the United States, then remaining on deposit with any banks or bankers; specifying the amounts

so on deposit in the cities of Boston, New York, Philadelphia, Baltimore, Cincinnati, and New Orleans.

Tenthly. The amount then on hand of bills or notes, issued by other associations, formed and doing business under this act, and the amounts issued by other banks and banking associations.

Eleventhly. The amount of balances due from other associations doing business under this act, and the amount due from other banks, bankers, and banking associations, excluding deposits subject to be drawn at sight as aforesaid.

Twelfthly. The amount on hand of bills, bonds, stocks, notes, and other evidences of debts, discounted or purchased by the association, specifying particularly the amount of suspended debt, the amount considered bad, the amount considered doubtful, and the amount in suit or judgment.

Thirteenthly. The value of the real and personal property held for the convenience of the association, specifying the amount of each.

Fourteenthly. The amount of real estate taken in payment of debts due to the association.

Fifteenthly. The amount of the undivided profits of the association.

Sixteenthly. The total amount of the liability to the association by the directors thereof, collectively, specifying the gross amount of such liabilities as principal debtors, and the gross amount as indorsers or sureties.

The statement thus made shall forthwith be transmitted to the Comptroller of the Currency.

SEC. 46. *And be it further enacted*, That every association may take, reserve, receive, and charge on any loan or dis-

count made, or upon any note, bill of exchange, or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several States in which the associations are respectively located, and no more: *Provided, however*, That interest may be reserved or taken in advance, at the time of making the loan or discount, according to the usual rules of banking; and the knowingly taking, reserving, or charging of a rate of interest greater than that allowed by this section shall be held and adjudged a forfeiture of the debt or demand on which the same is taken, reserved, or charged; but the purchase, discount, or sale of a bill of exchange, drawn on actually existing values, and payable at another place than the place of such purchase, discount, or sale, at the current discount or premium, shall not be considered as taking, reserving, or charging interest.

SEC. 47. *And be it further enacted*, That the total liabilities of any person, or of any company or firm, (including in the liabilities of a company or firm the liabilities of the several members thereof,) to any association, including liabilities as acceptor of bona fide bills of exchange, payable out of the State where the association is located, shall at no time exceed one-third; exclusive of liabilities as acceptor, one-fifth; and exclusive of liabilities on such bills of exchange, one-tenth part of the amount of the capital stock of such association actually paid in.

SEC. 48. *And be it further enacted*, That no association shall, at any time, pay out on loans or discounts, or in pur-

chasing drafts or bills of exchange, or in payment of deposits, nor shall it in any other mode put in circulation the notes of any bank or banking association, which notes shall not, at any such time, be receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

SEC. 49. *And be it further enacted*, That all transfer of the notes, bonds, bills of exchange, and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void.

SEC. 50. *And be it further enacted*, That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate, any of the provisions of this act, all the rights, privileges, and franchises of the association, derived from this act, shall be thereby forfeited. Such violation shall, however, be determined and adjudged by

a proper circuit, district, or territorial court of the United States, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

SEC. 51. *And be it further enacted*, That the Comptroller of the Currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and, in doing so, to examine any of the officers or agents thereof on oath, and shall make a full and detailed report of the condition of the association to the Comptroller; and the association shall not be subject to any other visitorial powers than such as are authorized by this act, except such as are vested in the several courts of law and chancery. And every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined.

SEC. 52. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association,

who shall embezzle, abstract, or wilfully misapply any of the moneys, funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud any other company, body politic or corporate, or any individual person, or to deceive any officer or agent appointed to examine the affairs of any such association, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

SEC. 53. *And be it further enacted*, That the president and cashier of every such association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association during business hours of each day in which business may be legally transacted; and a copy of such list, verified by the oath of such president or cashier, shall, at the beginning of every quarter of a year, be transmitted to the Comptroller of the Currency, commencing on the first day of the first quarter after the passage of this act.

SEC. 54. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever, in his judgment, the public interest will be promoted thereby, to employ any of such associations, doing business under this act, as depositaries of the public moneys, except receipts from customs.

SEC. 55. *And be it further enacted*, That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the Solicitor of the Treasury.

SEC. 56. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued by said association, shall upon conviction forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

SEC. 57. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or

attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any such circulating notes, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than five years nor more than fifteen years, and to be fined in a sum not exceeding one thousand dollars.

SEC. 58. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody and possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes

issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

SEC. 59. *And be it further enacted*, That suits, actions, and proceedings by and against any association under this act, may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established.

SEC. 60. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to report annually to Congress, at the commencement of its session—

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed, and the amount outstanding.

Third. To suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the billholders and depositors may be increased.

Fourth. To report the names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year; and such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the Senate and House, and one thousand copies for the use of the department, shall be printed by the public printer and in readiness for distribution on the first meeting of Congress.

SEC. 61. *And be it further enacted*, That the sums necessary to defray the expenses to be incurred in the execution of this act be, and the same are hereby, appropriated out of any moneys in the treasury not otherwise appropriated.

Appendix B.

THE SHERMAN ACT.

AN ACT To provide a National Currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by Congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, by and with the advice and consent of the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the Secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of comptroller during a vacancy in such office, and during his absence and inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the Secretary of the Treasury in the man-

ner now provided by law. Within fifteen days from the time of notice of his appointment, the comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in penalty of one hundred thousand dollars, with not less than two responsible freeholders as sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office. The deputy comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The comptroller and deputy comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

SEC. 2. *And be it further enacted*, That the comptroller of the currency, with the approval of the Secretary of the Treasury, shall devise a seal with suitable inscriptions, for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the comptroller of the currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in

like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

SEC. 3. *And be it further enacted*, That there shall be assigned to the comptroller of the currency by the Secretary of the Treasury suitable rooms in the treasury building for conducting the business of the currency bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the comptroller to deposit and safely keep all the plates and other valuable things belonging to his department; and the comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business.

SEC. 4. *And be it further enacted*, That the term "United States bonds," as used in this act, shall be construed to mean all coupon and registered bonds now issued or that may hereafter be issued on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five.

SEC. 6. *And be it further enacted*, That persons uniting to form such an association shall, under their hands and seals, make a certificate which shall specify—

First. The name assumed by such association.

Second. The place where its operations of discount and deposite are to be carried on, designating the State, Territory, or district, and also the particular city, town, or village.

Third. The amount of its capital stock, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars; and in cities whose population is over ten thousand persons, the capital stock shall not be less than one hundred thousand dollars.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

Fifth. The time when such association shall commence.

Sixth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and the acknowledgement thereof certified under the seal of such court or notary, and shall be transmitted, together with a copy of the articles of association which shall have been adopted, to the comptroller of the currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the Government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

SEC. 7. *And be it further enacted*, That at least thirty per centum of the capital stock of such association shall be paid in at the time of the commencement of its banking business, and the remainder of the capital stock of such

association shall be paid in instalments of at least ten per centum each on the whole amount to which the association shall be limited, as frequently as one instalment at the end of each succeeding two months from the time of the commencement of its banking operations, until the whole of the capital stock shall be paid in.

SEC. 8. *And be it further enacted*, That if any shareholder, or his assignee, shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock held by such delinquent shareholder, at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city where the association is located, if the same be located in a city, and if not so located, then in a newspaper printed, or of general circulation, in the county where the same is located, to any person who will pay the highest price therefor, and not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the costs of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock may subsequently be sold as the directors may order.

SEC. 9. *And be it further enacted*, That whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least thirty per centum of its capital stock has been paid

as aforesaid, and that such association has complied with all the provisions of this act required to be complied with before such association shall be authorized to commence the business of banking, and that such association is desirous of commencing such business, the comptroller shall immediately proceed, in such manner as he shall by general rules prescribe, to examine the condition of such association; to ascertain especially the amount of money paid in on account of its capital stock; the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act to entitle it to engage in the business of banking; and shall cause to be made, and attested by the oaths of a majority of the directors and by the president or cashier of such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

SEC. 10. *And be it further enacted*, That if, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate under his hand and official seal, showing that such association has complied with all the provisions of

this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some newspaper, published in the city or county where such association is located, for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county, such certificate shall be published as the comptroller of the currency shall direct.

SEC. 11. *And be it further enacted*, That every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein, not, however, exceeding twenty years from the passage of this act; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons, and may make by-laws, approved by the comptroller of the currency, not inconsistent with the laws of the United States or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in accordance with the provisions of this act; by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins, and bills of exchange; by loaning money on real and per-

sonal security, in the manner specified in their articles of association, for the purposes authorized by this act, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place; and their usual business shall be transacted in banking offices located at the places specified respectively in its certificate of association, and not elsewhere.

SEC. 12. *And be it further enacted*, That the shares of associations formed under this act shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired. For all debts, contracted by such association for circulation, deposit, or otherwise, each shareholder shall be liable to the amount, at their par value, of the shares held by him in addition to the amount invested in such shares.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its

capital from time to time as may be deemed expedient, subject to the limitations of this act; but no such increase shall be valid until the increased capital shall be paid in, and notice thereof shall have been transmitted to the comptroller of the currency, and his certificate obtained, specifying the amount of such increase of capital stock, and that the same has been duly paid to such association.

SEC. 14. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for loans made by such association, or for moneys due thereto.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section.

SEC. 15. *And be it further enacted*, That every association, after having complied with the provisions of this act preliminary to the commencement of banking business under its provisions, shall transfer and deliver to the treasurer of the United States any United States bonds bearing interest to an amount not less than one third

of the capital stock paid in; which bonds shall be deposited with the treasurer of the United States, and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act.

SEC. 16. *And be it further enacted*, That upon the making of any such transfer and delivery, the association making the same shall be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding the par value thereof, if bearing interest at the rate of six per centum, or of equivalent United States bonds bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

SEC. 17. *And be it further enacted*, That the entire amount of circulating notes to be issued under this act shall not exceed three hundred millions of dollars. One hundred and fifty millions of which sum shall be apportioned to associations in the States, in the District of Columbia, and in the Territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to the existing banking capital, resources, and business, of such States, District, and Territories.

SEC. 18. *And be it further enacted*, That, in order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates to be engraved in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the treasurer of the United States, and issued under the provisions of this act, which statement shall be attested by the written or engraved signatures of the treasurer and register, and by the imprint of the seal of the treasury; and shall also express upon their face the promise of the association receiving the same, to pay on demand, attested by the signatures of the president, or vice-president, and cashier; and the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

SEC. 19. *And be it further enacted*, That the plates and special dies to be procured by the comptroller of the currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this

act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the Treasury Department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for the security of the same, such association organized under this act shall semi-annually, on the first days of January and July, after its organization, pay to the comptroller of the currency, in lawful money of the United States, one per centum on the amount of circulating notes received by such association, and in default thereof, the treasurer of the United States is hereby authorized to reserve and retain one per centum on the amount of said bonds so deposited, at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the Secretary, and every bank, banking association, or corporation, not organized under the provisions of this act, issuing notes calculated or intended to circulate as money, shall, on the first day of July next, and regularly on the first days of January and July thereafter, make and deliver to the comptroller of the currency a true and accurate return of the gross amount of notes issued by it, whether in circulation, or in its vaults, or on deposit elsewhere; and in default of any such return, the bank, banking association, or corporation so failing to make return, shall pay to the United States a penalty of two per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

SEC. 20. *And be it further enacted,* That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on public debt; and no such association shall issue post notes, or any other notes to circulate as money, than such as are authorized by the foregoing provisions of this act.

SEC. 21. *And be it further enacted,* That all transfers of United States bonds which shall be made by any association as security for circulating notes under the provisions of this act, shall be made to the treasurer of the United States, with a memorandum written or printed on the certificate of such bonds, and signed by the cashier, or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes delivered to such association; and no transfer of any such bonds by the treasurer shall be deemed valid, or of binding force and effect, unless sanctioned by the order or request of the comptroller of the currency upon the treasurer It

shall be the duty of the comptroller of the currency to keep in his office a book in which shall be entered the name of every association from whose accounts such transfer of bonds is made by the treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made, the kind of bonds and the amount thereof so transferred.

SEC. 22. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the treasurer presented for his signature; and the comptroller shall have at all times during office hours access to the books of the treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the treasurer shall have the like access to the book above mentioned, kept by the comptroller, during office hours to ascertain the correctness of the entries in the same.

SEC. 23. *And be it further enacted*, That it shall be the duty of either the president or cashier of every banking association having stocks deposited in the office of the treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to ex-

amine and compare the bonds so pledged with the books of said Department, and, if found correct, to execute to the said treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the treasurer at the date of such certificate. Such examination may be made by an agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

SEC. 24. *And be it further enacted*, That every association issuing circulating notes under the provision of this act, shall make a quarterly report to the comptroller of the currency commencing on the first day of the quarter of the year next succeeding the organization of such association, and continuing on the first days of each succeeding quarter in every year thereafter, which report shall be verified by the oath or affirmation of the president and cashier, and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence. The report hereby required shall be in the form prescribed by the comptroller, and shall contain a true statement of the condition of the association making such report, before the transaction of any business on the morning of the day specified, next preceding the date of such report, in respect of the following items and particulars, to wit: Loans and discounts, overdrafts due from banks, amount due from the directors of the association, real estate, specie, cash items, stocks, bonds, and promissory notes, bills of solvent banks, bills

of suspended banks, loss and expense account, capital, circulation, profits, amount due to banks, amount due to individuals and corporations other than banks, amount due the treasurer of the United States, amount due to depositors on demand, amount due, not included under either of the above heads. And it shall be the duty of the comptroller to publish full abstracts of such reports together in two newspapers to be designated by him for that purpose, one in the city of Washington and the other in the city of New York, exhibiting the items of capital, circulation, and deposits, specie and cash items, public securities and private securities; and the separate report of each association shall be published in a newspaper published in the place where such association is established, or, if there be no newspaper at such place, then in a newspaper published at the capital of the State, at the expense of the association making such report. In addition to the quarterly reports required by this section, every association located and doing business in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans, shall publish, or cause to be published, on the morning of the first Tuesday in each month, in a newspaper printed in the city in which the association making such report is located, to be designated by the comptroller of the currency, a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and discounts, specie, deposits, and circulation.

SEC. 25. *And be it further enacted*, That if any such association shall, at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested, in one package, by a notary public, unless the president or cashier of the association shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the comptroller of the currency; and after such default it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided, however*, That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 26. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any

of its circulating notes, as specified in the next preceding section, the comptroller of the currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes, in the lawful money of the United States, when demanded as aforesaid, and report to the comptroller the facts so ascertained; and if, from such protest or the report so made, the comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon the comptroller shall immediately give notice, in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the treasury of the United States; and the same shall be paid as presented, whereupon said comptroller may, in his discretion, cancel an equal amount of bonds pledged by such association, equal at current market rates, not exceeding par, to the notes paid; and it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the

evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be cancelled; and for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

SEC. 27. *And be it further enacted*, That whenever the comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

SEC. 28. *And be it further enacted*, That the comptroller of the currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by

private sale for less than the par, nor less than the market value thereof at the time of sale. *And provided further*, That no sales of any such stock, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

SEC. 29. *And be it further enacted*, That on becoming satisfied, as specified in this act, that any such association has refused to pay its circulating notes as therein mentioned, and is in default, the comptroller of the currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who, under the direction of the comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct; and such receiver shall pay over all moneys so made to the treasurer of the United States, and also make report to the comptroller of the currency of all his acts and proceedings. The comptroller shall thereupon cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof; and from time to time the comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, shall

make a ratable dividend of the moneys so paid over to him by such receiver on all such claims as may have been so proved and adjudicated in a court of competent jurisdiction; and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however,* That if any such association, against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceeding in the premises; and such court, after citing the comptroller of the currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

SEC. 30. *And be it further enacted,* That the bonds transferred to the treasurer of the United States, as hereinbefore provided, by any banking association for the security

of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency may give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which shall have been so transferred to the treasurer by it; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid; and said comptroller may direct the return of any of said bonds to the banking association which transferred the same, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That ninety per centum of the current market value of the remaining bonds which shall have been transferred by the banking association offering to surrender such circulating notes shall be equal to the amount of all the circulating notes retained by such banking association: *And provided, further*, That there shall have been no failure by such association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall the treasurer be required to surrender such bonds in fractional sums of less than one thousand dollars; and if, at any time after said bonds shall be deposited with the treasurer of the United States, as aforesaid, the market or cash value shall be reduced, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association

receiving said bills, to be deposited with the treasurer of the United States, as long as such depreciation continues.

SEC. 31. *And be it further enacted*, That whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such banking association shall be, at the stock exchange in the city of New York, for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other bonds or money, it shall be the duty of the comptroller of the currency to notify the treasurer of the United States of such fact, and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said treasurer until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided*, That it shall be the duty of the comptroller of the currency, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States bonds, in the name of the comptroller of the currency, in trust for the respective associations by which the bonds on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated bonds at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on

such pledged bonds shall thereafter be paid to such association on demand thereof.

SEC. 32. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to receive worn-out or mutilated circulating notes issued by any such banking association, and to deliver in place thereof to such association other blank circulating notes to an equal amount; and such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes in presence of three persons, one to be appointed by the Secretary of the Treasury, one by the comptroller of the currency, and one by the treasurer of the United States, under such regulations as the Secretary of the Treasury may prescribe; and in case such notes shall have been delivered to the comptroller by an officer or agent of such association, then in the presence, also, of such officer or agent; and a certificate of such burning, signed by the parties so appointed, shall be made in the books of the comptroller, and a duplicate thereof given to such officer or agent.

SEC. 33. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning

of this act; and any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not exceeding fifteen years, at the discretion of the court in which he shall be tried.

SEC. 34. *And be it further enacted*, That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the stock pledged by such banking association, as aforesaid, shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

SEC. 35. *And be it further enacted*, That the stockholders, collectively, of any such association shall at no time be liable to such association, either as principal debtors or sureties, or both, to an amount greater than three fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so liable, except to such amount and in such manner as shall be prescribed by the by-laws of such association, adopted by its stockholders to regulate such liabilities.

SEC. 36. *And be it further enacted*, That the capital stock of any association formed under this act shall

be divided into shares of one hundred dollars each, and shall be assignable on the books of the association in such manner as its by-laws shall prescribe; but no shareholder in any association under this act shall have power to sell or transfer any share held in his own right so long as he shall be liable, either as principal, debtor, surety, or otherwise, to the association for any debt which shall have become due and remain unpaid, nor in any case shall such shareholder be entitled to receive any dividend, interest, or profit on such shares so long as such liabilities shall continue; but all such dividends, interests, and profits shall be retained by the association, and applied to the discharge of such liabilities; and no stock shall be transferred without the consent of a majority of the directors while the holder thereof is thus indebted to the association.

SEC. 37. *And be it further enacted*, That no banking association shall take, as security for any loan or discount, a lien upon any part of its capital stock; but the same security, both in kind and amount, shall be required of shareholders as of other persons; and no such banking association shall be the purchaser or holder of any portion of its capital stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, on security which, at the time, was deemed adequate to insure the payment of such debt, independent of any lien upon such stock; or in case of forfeiture of stock for the non-payment of instalments due thereon, and stock so purchased or acquired, shall in no case be held by such association

so purchasing for a longer period of time than six months, if the same can, within that time, be sold for what the stock cost.

SEC. 38. *And be it further enacted*, That in all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or book-keeper of such association shall act as proxy; and no stockholder whose liability is past due and unpaid shall be allowed to vote.

SEC. 39. *And be it further enacted*, That the affairs of every such association shall be managed by not less than five nor more than nine directors, one of whom shall be president of the association; every director shall, during his whole term of service, be a citizen of the United States and a resident of the state in which such association is located. At least three fourths of the directors shall have resided in the state in which such association is located one year next preceding their election as directors; and each director shall own in his own right, at least one per centum of the capital stock of such association not exceeding two hundred thousand dollars, and the half of one per centum of its capital if over two hundred thousand dollars. Each director shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this act, and that he is the bonâ fide owner, in his own right, of

the shares of stock standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan obtained or debt owing to the association of which he is a director, which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the comptroller of the currency, and by him filed and preserved in his office.

SEC. 40. *And be it further enacted*, That the directors of any such association first elected shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually, on such day in the month of January as the stockholders of said association may prescribe; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director removing from the state, or ceasing to be the owner of the requisite amount of stock, shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors. The director so appointed shall hold his place until the next annual election; and if, from any cause, an election of directors shall not be made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof having been given in a newspaper printed, or of general circulation, in the city, town, or county in which the association is located, and if no newspaper is published in such city, town, or county, such notice shall be published in a newspaper in the county adjoining.

SEC. 41. *And be it further enacted*, That every such association shall at all times have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its outstanding notes of circulation and its deposits; and whenever the amount of its outstanding notes of circulation and its deposits shall exceed the above-named proportion for the space of twelve days, or whenever such lawful money of the United States shall at any time fall below the amount of twenty-five per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange, payable at sight, nor make any dividend of its profits, until the required proportion between the aggregate amount of its outstanding notes of circulation and its deposits and lawful money of the United States shall be restored: *Provided, however*, That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificates, and considered to be a part of the lawful money which such association is required to have, under the foregoing provisions of this section: *Provided, further*, That any balance due to any association organized under this act in other places from any association in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St Louis, or New Orleans, in good credit, subject to be drawn for at sight, and available to redeem

their circulating notes and deposits, may be deemed to be a part of the lawful money which such association in other places than the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans, are required to have by the foregoing provisions of this section to the extent of three fifths of the said amount of twenty-five per centum required. And it shall be competent for the comptroller of the currency to notify any such association whose lawful money reserve, as aforesaid, shall fall below said proportion of twenty-five per centum, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

SEC. 42. *And be it further enacted*, That no association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in, and remaining undiminished by losses or otherwise, except on the following accounts, that is to say:

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereto.

Fourth. On account of its liabilities to its stockholders, for money paid in on capital stock, and dividends thereon, and reserved profits.

SEC. 43. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise.

SEC. 44. *And be it further enacted*, That no association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends, loans to stockholders for a longer time than six months or in any other manner, any portion of its capital; and if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it shall continue its banking operations, to an amount greater than its nett profits then on hand, deducting therefrom its losses and bad debts; and all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act.

SEC. 45. *And be it further enacted*, That the directors of every association shall semi-annually in the months of May and November, declare a dividend of so much of the profits of such association as they shall judge expedient; and on each dividend day, the cashier shall make, and verify by his oath, a full, clear, and accurate statement of the condition of the association, as it shall be on that

day after declaring the dividend; which statement shall contain—

First. The amount of the capital stock actually paid in and then remaining, as the capital stock of such association.

Secondly. The amount of the circulating notes of such association then in circulation.

Thirdly. The greatest amount in circulation at any time since the making of the last previous statement, as shall have been exhibited by the weekly statements of the cashier, specifying the times when the same occurred.

Fourthly. The amount of balances and debts of every kind due to other banks and banking associations.

Fifthly. The amount due to depositors.

Sixthly. The total amount of debts and liabilities of every description, and the greatest amount since the making of the last previous statement, specifying the time when the same accrued.

Seventhly. The total amount of dividend declared on the day of making the statement.

Eighthly. The amount of lawful money of the United States belonging to the association, and in its possession at the time of making the statement.

Ninthly. The amount subject to be drawn at sight, in lawful money of the United States, then remaining on deposit with any associations, banks, or bankers; specifying the amount so on deposit in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans.

Tenthly. The amount then on hand of bills or notes, issued by other banks and banking associations.

Eleventhly. The amount of balances due from other banks, bankers, and banking associations, excluding deposits subject to be drawn at sight as aforesaid.

Twelfthly. The amount on hand of bills, bonds, stocks, notes, and other evidences of debts, discounted or purchased by the association, specifying particularly the amount of suspended debt, the amount considered bad, the amount considered doubtful, and the amount in suit or judgment.

Thirteenthly. The value of the real and personal property held for the convenience of the association, specifying the amount of each.

Fourteenthly. The amount of real estate taken in payment of debts due to the association.

Fifteenthly. The amount of the undivided profits of the association.

Sixteenthly. The total amount of the liability to the association by the directors thereof collectively, specifying the gross amount of such liabilities as principal debtors, and the gross amount of indorsers or sureties.

The statement thus made shall forthwith be transmitted to the comptroller of the currency.

SEC. 46. *And be it further enacted*, That every association may take, reserve, receive, and charge on any loan, or discount made, or upon any note, bill of exchange, or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several States in which the associations are respectively located, and no more: *Pro-*

vided, however, That interest may be reserved or taken, in advance, at the time of making the loan or discount, according to the usual rules of banking; and the knowingly taking, reserving, or charging of a rate of interest greater than that allowed by this section shall be held and adjudged a forfeiture of the debt or demand on which the same is taken, reserved, or charged; but the purchase, discount, or sale of a bill of exchange, drawn on actually existing values, and payable at another place than the place of such purchase, discount, or sale, at the current discount or premium, shall not be considered as taking, reserving, or charging interest.

SEC. 47. *And be it further enacted,* That the total liabilities of any person, or of any company or firm, (including in the liabilities of a company or firm the liabilities of the several members thereof,) to any association, including liabilities as acceptor of bonâ fide bills of exchange, payable out of the state where the association is located, shall at no time exceed one third; exclusive of liabilities as acceptor, one fifth; and exclusive of liabilities on such bills of exchange, one tenth part of the amount of the capital stock of such association actually paid in.

SEC. 48. *And be it further enacted,* That no association shall, at any time, pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, nor shall it in any other mode put in circulation the notes of any bank or banking association, which notes shall not, at any such time, be receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall it know-

ingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

SEC. 49. *And be it further enacted*, That all transfer of the notes, bonds, bills of exchange, and other evidences of debt owing to any association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable things for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, with a view to prevent the application of its assets in the manner prescribed by this act, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void.

SEC. 50. *And be it further enacted*, That if the directors of any association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this act, all the rights, privileges, and franchises of the association, derived from this act shall be thereby forfeited; such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, before the association shall be declared dissolved; and in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any

other person, shall have sustained in consequence of such violation.

SEC. 51. *And be it further enacted*, That the comptroller of the currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and; in doing so, to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the association to the comptroller; and the association shall not be subject to any other visitorial powers than such as are authorized by this act, except such as are vested in the several courts of law and chancery. And every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined.

SEC. 52. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association, who shall embezzle, abstract, or wilfully misapply any of the moneys, funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate

of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud any other company, body politic, or corporate, or any individual person, or to deceive any officer or agent appointed to examine the affairs of any such association, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

SEC. 53. *And be it further enacted*, That the president and cashier of every such association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association during business hours of each day in which business may be legally transacted; and a copy of such list, verified by the oath of such president or cashier, shall, at the beginning of every year, be transmitted to the comptroller of the currency, commencing on the first day of the first quarter after the organization of the association.

SEC. 54. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever, in his judgment, the public interests will be promoted thereby, to employ any of such associations doing business under this act as depositaries of the public moneys, except receipts from customs.

SEC. 55. *And be it further enacted,* That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the solicitor of the treasury.

SEC. 56. *And be it further enacted,* That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt, unfit to be reissued by said association, shall upon conviction forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

SEC. 57. *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any

such circulating notes, issued as aforesaid, or shall pass, utter or publish, or attempt to pass, utter or publish as true, any falsely altered or spurious circulating note, issued or purporting to have been issued as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than five years nor more than fifteen years, and to be fined a sum not exceeding one thousand dollars.

SEC. 58. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof

convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

SEC. 59. *And be it further enacted*, That suits, actions, and proceedings by and against any association under this act may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established.

SEC. 60. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to report annually to Congress, at the commencement of its session—

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed, and the amount outstanding.

Third. To suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the bill-holders and depositors may be increased.

Fourth. To report the names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year; and such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the Senate and House, and one thousand copies for the use of the Department, shall be printed by the public printer and in readiness for distribution on the first meeting of congress.

SEC. 61. *And be it further enacted*, That any banking association or corporation lawfully in existence as a bank of circulation on the first day of January, anno Domini eighteen hundred and sixty-three, organized in any state, either under a special act of incorporation or a general banking law, may, at any time within —— years after the passage of this act become an association under the provisions of this act; that in such case the certificate of association provided for by this act shall be signed by the directors of such banking association or corporation, and in addition to the specifications required by this act, shall specify that such directors are authorized by the owners of two thirds of the capital stock of such banking association or corporation, to make such certificate of association, and such certificate of association shall thereafter have the same effect, and the same proceedings shall be had thereon, as is provided for as to other associations organized under this act. And such association or corporation thereafter shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as is [are]

prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act.

SEC. 62. *And be it further enacted*, That any bank or banking association, authorized by any State law to engage in the business of banking, and duly organized under such State law at the time of the passage of this act, and which shall be the holder and owner of United States bonds to the amount of fifty per centum of its capital stock, may transfer and deliver to the treasurer of the United States such bonds, or any part thereof, in the manner provided by this act; and upon making such transfer and delivery, such bank or banking association shall be entitled to receive from the comptroller of the currency, circulating notes, as herein provided, equal in amount to eighty per centum of the amount of the bonds so transferred and delivered.

SEC. 63. *And be it further enacted*, That upon the failure of any such State bank or banking association, to redeem any of its circulating notes issued under the provisions of the preceding section, the comptroller of the currency shall, when satisfied that such default has been made, and within thirty days after notice of such default, proceed to declare the bonds transferred and delivered to the treasurer, forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the circulating notes which have been issued by such bank or banking association shall be redeemed and paid at the treasury of the United States, in the same manner as other circulating notes issued under the provisions of this act are redeemed and paid

SEC. 64. *And be it further enacted*, That the bonds forfeited, as provided in the last preceding section, may be cancelled to an amount equal to the circulating notes redeemed and paid, or such bonds may be sold, under the direction of the Secretary of the Treasury, and after retaining out of the proceeds a sum sufficient to pay the whole amount of circulating notes, for the redemption of which such bonds are held, the surplus, if any remains, shall be paid to the bank, or banking association from which such bonds were received.

SEC. 65. *And be it further enacted*, That Congress reserves the right, at any time, to amend, alter, or repeal this act.

APPROVED, February 25, 1863.

Appendix C.

Section seven of "An Act to provide Ways and Means for the Support of the Government", approved March 3, 1863.

Sec. 7. *And be it further enacted,* That all banks, associations, corporations, or individuals, issuing notes or bills for circulation as currency, shall be subject to and pay a duty of one per centum each half year from and after April first, eighteen hundred and sixty-three, upon the average amount of circulation of notes or bills as currency issued beyond the amount hereinafter named, that is to say: banks, associations, corporations, or individuals, having a capital of not over one hundred thousand dollars, ninety per centum thereof; over one hundred thousand and not over two hundred thousand dollars, eighty per centum thereof; over two hundred thousand and not over three hundred thousand dollars, seventy per centum thereof; over three hundred thousand and not over five hundred thousand dollars, sixty per centum thereof; over five hundred thousand and not over one million of dollars, fifty per centum thereof; over one million and not over one million and a half of dollars, forty per centum thereof; over one million and a half, and not over two millions of dollars, thirty per centum thereof; over two millions of dollars, twenty-five per centum thereof. In the case of banks with branches, the duty herein provided for shall be imposed upon the circulation of the notes or bills of such branches severally, and not upon the aggregate circulation

of all; and the amount of capital of each branch shall be considered to be the amount allotted to or used by such branch; and all such banks, banking associations, corporations, and individuals shall also be subject to and pay a duty of one half of one per centum each half year from and after April first, eighteen hundred and sixty-three, upon the average amount of notes or bills not otherwise herein taxed and outstanding as currency during the six months next preceding the return hereinafter provided for; and the rates of tax or duty imposed on the circulation of associations which may be organized under the act "to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February twenty-fifth, eighteen hundred and sixty-three, shall be the same as that hereby imposed on the circulation and deposits of all banks, associations, corporations, or individuals, but shall be assessed and collected as required by said act; all banks, associations, or corporations, and individuals issuing or reissuing notes or bills for circulation as currency after April first, eighteen hundred and sixty-three, in sums representing any fractional part of a dollar, shall be subject to and pay a duty of five per centum each half year thereafter upon the amount of such fractional notes or bills so issued. And all banks, associations, corporations, and individuals receiving deposits of money subject to payment on check or draft, except savings institutions, shall be subject to a duty of one eighth of one per centum each half year from and after April first, eighteen hundred and sixty-three, upon the average amount of such

deposits beyond the average amount of their circulating notes or bills lawfully issued and outstanding as currency. And a list or return shall be made and rendered within thirty days after the first day of October, eighteen hundred and sixty-three, and each six months thereafter, to the commissioner of internal revenue, which shall contain a true and faithful account of the amount of duties accrued, or which should accrue, on the full amount of the fractional note circulation and on the average amount of all other circulation and of all such deposits, for the six months next preceding. And there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the commissioner of internal revenue, of the president, or some other proper officer of said bank, association, corporation, or individual, respectively, that the same contains a true and faithful account of the duties which have accrued, or which should accrue, and not accounted for; and for any default in the delivery of such list or return, with such declaration annexed, the bank, association, corporation, or individual making such default, shall forfeit, as a penalty, the sum of five hundred dollars. And such bank, association, corporation, or individual shall, upon rendering the list or return as aforesaid, pay to the commissioner of internal revenue the amount of the duties due on such list or return, and in default thereof shall forfeit, as a penalty, the sum of five hundred dollars; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should have

been made or rendered, or when said duties shall have become due and payable, the assessment and collection shall be made according to the general provisions prescribed in an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt", approved July one, eighteen hundred and sixty-two.

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61ST CONGRESS } SENATE { DOCUMENT 582
2d Session } { Part 2

NATIONAL MONETARY COMMISSION

Supplement

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Appendix D.

THE MOORHEAD BILL.

On the 20th of January, 1863, Mr. Moorhead of Pennsylvania introduced in the House of Representatives a bill "To provide a national currency secured by a pledge of United States stock, and to provide for the circulation and redemption thereof." Mr. Moorhead was neither a financier nor a lawyer, hence it may be inferred that the bill was introduced at the suggestion of some other person, for the purpose of securing a foothold in the legislative controversy then in progress. Its introduction does not, however, seem to have had the slightest influence upon the progress of events. The history of the bill is to be found in full in the entries in the House Journal and the Congressional Globe, which record the action of the House on that day. The bill was ordered to be printed and was referred to the Committee on Ways and Means. After which it was not heard of. No copy of the bill is to be found in the House document room, but it chances that one has been preserved in the collection in the document room of the Senate. From that source we are able to procure a copy of House bill No. 693, Thirty-seventh Congress, third session, which, even though it was stillborn, is entitled to recognition in an attempt to place on record the story of the development of the present national banking act. As it has not heretofore been reprinted it is now offered as an appendix to Senate Document No. 582, Sixty-first Congress, second session.

The reference of the Moorhead bill to the committee proved to be fatal even to the discussion of its merits, for when the bill known as the Sherman Act was sent down to the House after its passage in the Senate, its consideration by the House was secured without committee reference, with the result that it was put through the several parliamentary stages requisite as a preliminary to its passage and finally passed without suffering delay from reference, all of which took place while the Moorhead bill was slumbering in the hands of the committee.

The Hooper bill was already before the House and a comparison of that bill with the Moorhead bill will show that the provisions of the first four sections are the same. The fifth section, however, in the Moorhead bill, is intrusive and discloses the probable purpose of the introduction of the bill. It provides that any bank having a capital of not less than $100,000, chartered in any State or Territory or in the District of Columbia may deposit United States stock with the United States Treasurer, and receive the national currency authorized by the act, to the extent of 80 per cent of the market value of the stock deposited. Provision is made in this section for the reception by the banks of the currency to be furnished by the Government and for the forfeiture of the pledged securities of any bank receiving the currency, which should fail to redeem the same on presentation.

The provisions of the Hooper bill relative to the reception by associations of the government currency; the method of establishing a failure to redeem, and the manner in which the forfeiture should be imposed are necessarily voluminous. The person who drafted section 5 of

the Moorhead bill, in order to save unnecessary repetition, covered the ground of incorporating these various sections into section 5 by references to the other sections by number, describing them as sections "of this act." An examination of the sections in the Moorhead bill bearing the designated numbers shows that they do not treat of the subjects referred to. If we test the Hooper bill to see if the references by section might perhaps fit in with that bill, we meet with the same result; but when we make the same test with the Sherman Act, we find that the references are appropriate. It would be natural to conclude that whoever drafted this section had the Sherman Act before him and made his references to the numbered sections in that act which deal with the respective subjects under consideration. It would not seem, however, as if such could have been the case. The Moorhead bill was introduced in the House on the 20th and the Sherman Act in the Senate on the 26th of January. Had the case been reversed and numerical references in the Sherman Act been found to correspond with the sections in the Moorhead bill, the conclusion would have been irresistible that use had been made of that bill by the person who drafted the Sherman Act. It is evident that whoever performed that service discovered the fact that there was likely to be trouble in these numerical cross references, and skillfully avoided them throughout the act. On the other hand, an examination of the Hooper bill shows that the section references in that bill are all wrong. This also is the case with the Moorhead bill with a single exception.

The sixth and seventh sections of the Moorhead bill correspond practically with the fifth and sixth in the

Hooper bill, but the eighth section of the former is made up of a consolidation of the ninth and tenth sections of the latter, the seventh and eighth not being reproduced. Through omissions and changes the consolidated section differs considerably from the originals, it being made a prerequisite for an association before it can receive its certificate to deposit with the Treasurer 50 per cent of the amount of its capital stock in United States 6 per cent bonds.

Sections 9, 10, 11, and 12 of the Moorhead bill correspond practically with sections 11, 12, 13, and 14 of the Hooper bill. No increase of stock, however, was to be valid under the Moorhead bill until the whole amount of this increase should have been deposited with the Treasurer of the United States in 6 per cent United States stocks.

The fifteenth section of the Hooper bill is dropped entirely from the Moorhead bill, but in place of it the eighth section of that bill called for a notification to the Comptroller of Currency that at least 50 per cent of the whole amount of the proposed capital stock of the association which was seeking to organize under the act had been deposited with the Treasurer of the United States "in and of United States stocks, or their equivalent in United States stocks," for the purpose and with the views of obtaining therefor circulating notes.

Sections 13 to 31, inclusive, of the Moorhead bill correspond closely with sections 16 to 34 of the Hooper bill, with the exception that section 23 is greatly curtailed.

Sections 35 to 55 of the Hooper bill, which relate in a general way to the management of the associations, prescribe what they may do, impose certain restraints upon

their actions, and define the responsibilities and liabilities of their officers, are omitted in the Moorhead bill, with the exception that section 54 of the Hooper bill, which authorizes the Secretary to employ associations as depositaries, is to be found in section 32 of the Moorhead bill in a modified form.

Sections 33 to 37, inclusive, of the Moorhead bill correspond with sections 56 to 60 of the Hooper bill. Section 61 of the Hooper bill is omitted, while section 38 of the Moorhead bill is a mere reservation of the right to amend at any time.

37TH CONGRESS, 3RD SESSION. } H. R. 693.

IN THE HOUSE OF REPRESENTATIVES.

January 20, 1863.

Mr. MOORHEAD, on leave, introduced the following bill:

To provide a national currency, secured by a pledge of United States stock, and to provide for the circulation and redemption thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this act and all laws that may be passed by Congress respecting the issue and regulation of a national currency secured by a pledge of United States stock. The chief officer of said bureau shall be denominated the Comptroller of the Currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, by and with the advice and consent of the Senate; he shall receive an annual salary of five thousand dollars; he shall appoint a competent deputy, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of said Comptroller during a vacancy in such office and during his absence or inability; he shall employ, from time to

time, the necessary clerks to discharge such duties as he shall assign to them, whose salaries shall not exceed sixteen hundred dollars each. Within fifteen days from the time of notice of his appointment the said Comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with two responsible freeholders as sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful performance of the duties of his office; and he shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act. The Deputy Comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a bond in the penalty of fifty thousand dollars.

SEC. 2. *And be it further enacted*, That the said Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall devise a seal with suitable inscriptions for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon be and become the seal of office of the Comptroller of the Currency, and the same may be renewed whenever necessary. Every certificate, assignment, and conveyance executed by the said Comptroller, in pursuance of any authority conferred on him by law, and sealed with his said seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office

of the said Comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

SEC. 3. *And be it further enacted*, That there shall be assigned to said Comptroller of the Currency by the Secretary of the Treasury suitable rooms in the Treasury building for conducting the business of the Currency Bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of said Comptroller to deposit and safely keep all the books, papers, plates, and other valuable things belonging to his department; and the said Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business, the expense of which shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 4. *And be it further enacted*, That the term "United States stock," as used in this act, shall be construed to mean all coupon and registered bonds now issued, or that may hereafter be issued, on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*, That any chartered bank or banking association in good credit, whose capital is not less than one hundred thousand dollars, organized under the law of any State or Territory, or in the District of Columbia, wishing to avail itself of the advantages of the national currency authorized to be issued by this act, shall present to the Comptroller of the Currency an author-

ized application therefor, verified by its seal and the signature of its president and cashier, duly acknowledged before a judge of some court of record or a notary public, the acknowledgment thereof to be certified under the seal of such court or notary; and the said application shall state the name of the said bank or banking association, the place where its office of discount, deposit, and issue is located, designating the State, city, town, or village, the amount of the capital stock, the number of shares into which the same is divided, the par value of each share, the time when its charter will expire; and a declaration that the said certificate is made to enable such bank or banking association to avail itself of the advantages of this act, so far as to receive from the Comptroller of the Currency such an amount of the national currency authorized to be issued by this act, in the denominations and according to the forms prescribed by the eighteenth section of this act, as shall be equal in amount to eighty per centum of the market price not over the par value of the United States stock, bearing interest, which pursuant to the provisions of this act, the said bank, making the said declaration, may preliminary to its receiving such notes, transfer and deliver to, and deposit with, the Treasurer of the United States; which United States stock so transferred as security for notes issued as aforesaid, shall be held by the Treasurer of the United States, pursuant to the provisions of the twenty-first section of this act. And further, that if any such bank or banking association shall, at any time, fail to redeem, in lawful money of the United States, any of the circulating notes delivered to it as aforesaid, when payment thereof shall be lawfully demanded, during the

usual hours of business, at the office of such bank or banking association, (the fact of such refusal to pay such notes to be ascertained pursuant to the twenty-fifth section of this act,) the stock of the United States, so pledged, shall be forfeited to, and disposed of, by the United States, according to the provisions of the twenty-sixth section of this act; and further, that the said chartered bank or banking association shall be entitled to no advantages, or be subject to any provisions of this act other than such as are provided for in this section and the other sections of this act referred to as aforesaid.

SEC. 6. *And be it further enacted*, That associations for carrying on the business of banking many be formed by any number of persons, not less in any case than five.

SEC. 7. *And be it further enacted*, That persons uniting to form such an association shall, under their hands and seals, make a certificate which shall specify—

First. The name assumed by such association.

Second. The place where the operations of discount and deposit of such association are to be carried on; designating the State, Territory, or District, and also the particular city, town, or village.

Third. The amount of the capital stock of such association, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars.

Fourth. The names and places of residence of the shareholders, and the number of shares held by each of them.

Fifth. The time when such association shall commence, and when the same shall terminate.

Sixth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

Said certificate shall be acknowledged before a judge of some court of record or a notary public, and the acknowledgement thereof certified under the seal of such court or notary, and shall be transmitted, together with a copy of the articles of association which shall have been adopted, to the Comptroller of the Currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the said Comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

SEC. 8. *And be it further enacted*, That whenever a certificate shall have been transmitted to the Comptroller of the Currency, as provided in the seventh section of this act, and the association transmitting the same shall notify said Comptroller that at least fifty per centum of the whole amount of the proposed capital stock of such association has been deposited with the Treasurer of the United States, in and of six per centum United States stocks, or their equivalent in United States stocks, for the purpose and with the views of obtaining therefor circulating notes, under and according to the provisions of this act; if, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the said

Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the said Comptroller shall give to such association a certificate under his hand and official seal, showing that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some daily newspaper, published in the State where such association is located, for at least sixty days next after the issuing thereof.

SEC. 9. *And be it further enacted*, That every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons, and may make by-laws, not inconsistent with law or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in accordance with the provisions of this act; by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins, and bills of exchange; by loaning money on

real and personal security in the manner specified in their articles of association for the purposes authorized by this act, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place; and all associations issuing notes to circulate as money under the provisions of this act shall be banks of discount and deposit as well as of circulation, and their usual business shall be transacted in banking offices located at the places specified respectively in their certificates of associations, and not elsewhere.

SEC. 10. *And be it further enacted*, That the shares of associations formed under this act shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be prescribed in the articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

SEC. 11. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient; but no such increase shall be valid until the whole amount of such increase shall have been deposited with the Treasurer of the United States in six per centum United States stocks,

or their equivalent in United States stocks, for the purpose and with the views of obtaining circulating notes therefor, under and according to the provisions of this act, and notice of such increase and deposit shall have been duly transmitted to the Comptroller of the Currency and verified and certified by him.

SEC. 12. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for loans made by such association, or for moneys due thereto.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section.

SEC. 13. *And be it further enacted*, That upon the making of any such transfer and delivery of United States stock as heretofore provided, and otherwise complying with the other preliminary requirements of this act, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to the current market value of the United States stock so transferred and delivered, but not exceeding the par value thereof, if

bearing interest at the rate of six per centum, and the equivalent of stock bearing interest at the rate of six per centum if in stock bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association exceed the amount at such time actually paid in of its capital stock.

SEC. 14. *And be it further enacted*, That, in order to furnish suitable notes for circulation, the Comptroller of the Currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and to be printed therefrom and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the banks and associations entitled to receive the same; which notes shall express upon their face that they are secured by United States stock, deposited with the Treasurer of the United States and issued under the provisions of this act, which statement shall be attested by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the treasury; and shall also bear upon their face the usual promise of the bank or association receiving the same, to pay on demand attested by the signatures of the president and cashier; and the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

SEC. 15. *And be it further enacted*, That the plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred by him, in executing the provisions of this act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the Treasury Department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for security of the same, the Treasurer of the United States is hereby authorized to reserve and retain one-fourth of one per centum on the amount of said bonds so deposited, at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the Secretary, and every bank, banking association, or corporation issuing notes calculated or intended to circulate as money, otherwise than as in this act provided, shall, within six months after the passage of this act, and regularly once in every succeeding six months, make and deliver to the Comptroller of the Currency a true and accurate return of the amount of notes issued by it, whether in circulation, in its vaults, or on deposit elsewhere, specifying the amount of the several denominations; and shall pay to the Comptroller of the Currency, semi-annually and at the time of making each return, in lawful money of the United States, one per centum upon the gross amount of notes issued, according to such return, during the first year after the passage of this act, and two per centum semi-annually thereafter thereon; and in default

of any such return, the bank, banking association, or corporation so failing to make return shall pay to the United States a penalty of three per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

SEC. 16. *And be it further enacted*, That after any such association shall have caused such notes to be filled up and signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands and all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States; and no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

SEC. 17. *And be it further enacted*, That all transfers of United States stock which shall be made by any bank or banking association as security for circulating notes under the provisions of this act shall be made to the Treasurer of the United States, with a memorandum written or printed on the certificate of such stock, and signed by the cashier or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes deliv-

ered to such bank or association; and no transfer of any such stock by the Treasurer shall be deemed valid or of binding force and effect, unless sanctioned by the order or request of the Comptroller of the Currency upon said Treasurer. It shall be the duty of the Comptroller of the Currency to keep in his office a book in which shall be entered the name of every bank or banking association, from whose account such transfer of stock is made by the said Treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the stock so transferred shall be entered therein; and it shall be the duty of the said Comptroller, immediately upon countersigning and entering the same, to advise by mail the bank or association from whose account such transfer was made, the kind of stock, and the amount thereof so transferred.

SEC. 18. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any stock held by the said Treasurer presented for his signature; and the said Comptroller shall have at all times during office hours access to the books of the Treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the Treasurer shall have the like access to the book above mentioned, kept by the said Comptroller, during office hours to ascertain the correctness of the entries in the same.

SEC. 19. *And be it further enacted*, That it shall be the duty of either the president or cashier of every bank and

banking association having stocks deposited in the office of the Treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the stock so pledged with the books of said department, and if found correct, to execute to the said Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the said Treasurer at the date of such certificate. Such examination may be made by an agent of such bank or association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

SEC. 20. *And be it further enacted*, That every association issuing circulating notes under the provisions of this act shall make a quarterly report to the Comptroller of the Currency, commencing in August next, and to be continued in November, February, May and August in each year thereafter, which report shall be verified by the president and cashier, and each of such reports shall contain a correct statement of the amount of the capital stock, of the average amount of the loans and discounts, of the specie and specie funds, of the legal tender notes of the United States, of the deposits, and of the circulation outstanding during the three months immediately preceding of each of said several and respective banks and banking associations, and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence.

SEC. 21. *And be it further enacted*, That if any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested in one package, by a notary public, unless the president, cashier, or teller of the association shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency; and after such default it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided, however*, That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 22. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the Comptroller of the Currency, with the con-

currence of the Secretary of the Treasury, shall appoint a special agent, (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes, in the lawful money of the United States, when demanded as aforesaid, and report to the said Comptroller of the Currency the facts so ascertained; and if, from the reports so made, the said Comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and that it has been in default ten days, he shall, within thirty days after he shall have received notice of such failure, declare the United States stock and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon said Comptroller shall immediately give notice in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the treasury of the United States; and the same shall be paid as presented, whereupon said Comptroller may, in his discretion, cancel an equal amount of the stock pledged by such association; and it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be cancelled; and for any deficiency in the proceeds of the stocks and securities pledged by such association, when disposed of as hereinafter speci-

fied, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

SEC. 23. *And be it further enacted*, That whenever said Comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned he may, instead of cancelling the United States stock and securities pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving notice of such sale to such association, and also advertising the time and place of sale, with a pertinent description of the stock to be offered for sale, in two or more newspapers published in the city of New York, for not less than ten days next preceding the day of sale.

SEC. 24. *And be it further enacted*, That the Comptroller of the Currency, may if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association to any other association, or to any individual person or firms, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such stock shall be sold by private sale for less than the par value thereof at the time of sale, nor shall any such stock be sold on credit: *And provided fur-*

ther, That no sales of any such stock, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in section twenty-one of this act.

SEC. 25. *And be it further enacted*, That on becoming satisfied, as specified in section twenty-six of this act, that any such association has refused to pay its circulating notes as therein mentioned, and has been in default for ten days, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who shall proceed, under the direction of said Comptroller, to take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct, and pay over all moneys so made to the Treasurer of the United States, and also make report to the Comptroller of the Currency of all his acts and proceedings. Such Comptroller shall cause notice to be given, by advertisement in one or more newspapers published in the city in which such association is located, if the same be in a city, and if not, then in one or more newspapers published in the county where the same is located for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof; and after the end of one year from the first publication of such notice, the said Comptroller, after full provision shall have been first made for refunding to

the United States any such deficiency as is mentioned in the twenty-sixth section of this act, shall make a ratable dividend of the moneys so paid over to him by such receiver on all such claims as may have been so proved or adjudicated in a court of competent jurisdiction, and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if anything, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however,* That if any such association, against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may, at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in the twenty-sixth section of this act, apply to the circuit court of the United States, or other court of competent jurisdiction, to enjoin further proceeding in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

SEC. 26. *And be it further enacted,* That the stock transferred to the Treasurer of the United States, as hereinbe-

fore provided, by any bank or association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; and if any officer of the United States shall and do allow or permit any of the said stocks so deposited or transferred as hereinbefore mentioned and provided, or contemplated to be so done by virtue of this act, to be taken, abstracted, or otherwise used, than as contemplated and provided by this act, every such officer so offending shall be deemed and held to be guilty of a high misdemeanor, and on conviction thereof in any court of the United States, shall be sentenced to be imprisoned and kept at hard labor for a period of not less than six years, nor more than twenty years, and to be fined in a sum not less than ten thousand dollars, nor more than one hundred thousand dollars; but the Comptroller of the Currency shall give to any banking association powers of attorney to receive and appropriate to its own use the interest on the stock which shall have been so transferred to him by it; but such powers shall become inoperative whenever such bank or association shall fail to redeem its circulating notes as aforesaid; and said comptroller may return any of said stock to the bank or association which transferred the same, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, The current market value of the remaining stock which shall have been transferred by the bank or association offering to surrender such circulating notes shall be equal to the amount of all the circulating notes retained by such bank or association: *And provided, further*, That there shall have

been no failure by such bank or association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall said Comptroller be required to surrender such stock in fractional sums of less than one thousand dollars; and if, at any time after said stock shall be deposited with the Treasurer of the United States, as aforesaid, the market or cash value shall be reduced, the Comptroller of the Treasury is hereby authorized to demand and receive the amount of such depreciation in other United States stock at cash value, or in money, from the association receiving said bills, to be deposited with the Treasurer of the United States as long as such depreciation continues.

SEC. 27. *And be it further enacted*, That whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such bank or association shall be at the stock exchange in the city of New York, for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other stocks or money, it shall be the duty of the bank comptroller to notify the Treasurer of the United States of such fact, and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said Treasurer until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided*, That it shall be the duty of the bank

comptroller, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States stocks, in the name of the bank comptroller, in trust for the respective associations by which the stocks on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated stock at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on such pledged stock shall thereafter be paid to such association on demand thereof.

SEC. 28. *And be it further enacted*, That whenever any such bank or association, being desirous of relinquishing its banking business, shall have paid at least ninety per centum of its circulating notes, and shall have delivered the same to the Comptroller of the Currency to be cancelled, and shall have provided means and given security to the satisfaction of the said Comptroller, for the redemption of its outstanding notes of circulation at the place where such bank or association is located, and shall have given notice thereof by advertisement for six consecutive months in two newspapers of general circulation, published, one at the capital of the State in which such association shall be located, and one in the city, town, village, or county in which the same is located, if there be one published therein, it shall be lawful for the said Comptroller to authorize and for the Treasurer of the United States to re-transfer and deliver to such bank or association all the stock and securities pledged by it, and thereupon

all the corporate powers of such association, except such as shall be necessary to close up its affairs, shall cease.

SEC. 29. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any such bank or association, and to deliver in place thereof to such bank or association other blank circulating notes to an equal amount; and such wornout or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the said Comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes by the said Comptroller of the Currency, in the presence of the Treasurer of the United States; and in case such notes shall have been delivered to said Comptroller by an officer or agent of said bank or association, then in the presence, also, of such officer or agent; and a certificate of such burning, signed by said Comptroller and Treasurer, shall be made in the books of said Comptroller, and a duplicate thereof given to such officer or agent.

SEC. 30. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such bank or association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act; and any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof in any court of the United States, shall be sentenced to be imprisoned and

kept at hard labor for a period not less than six years, nor more than twenty years, and to be fined in a sum not less than ten thousand nor more than one hundred thousand dollars.

SEC. 31. *And be it further enacted*, That all fees for protesting the notes issued by any such bank or association shall be paid by the person procuring the protest to be made, and such bank or association shall be liable therefor; but no part of the stock pledged by such bank or association, as aforesaid, shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

SEC. 32. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever, in his judgment, the public interest will be promoted thereby, to employ any of such associations, doing business under this act, as depositaries of the public moneys, in any place except the city of Washington.

SEC. 33. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt, unfit to be reissued by said association, shall upon conviction, forfeit fifty dollars to the corporation who shall be injured thereby.

SEC. 34. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any corporation or association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any such circulating notes, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years nor more than ten years, and to be fined in a sum not exceeding one thousand dollars.

SEC. 35. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody and possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used, in forging or counter-

feiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a term not less than three nor more than ten years, and fined in a sum not exceeding one thousand dollars.

SEC. 36. *And be it further enacted*, That suits, actions, and proceedings may be had in courts of record of the several States and Territories by and against corporations and associations under the provisions of this act; and such courts shall have concurrent jurisdiction with the circuit and district courts of the United States in all such suits, actions, and proceedings.

SEC. 37. *And be it further enacted*, That it shall be the duty of the Comptroller of the Currency to report annually to Congress, at the commencement of its session—

One. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes

outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Two. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed, and the amount outstanding.

Three. To suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the bill-holders and depositors may be increased.

Fourth. To report the names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year; such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the Senate and House, and two hundred and fifty copies for the use of the department, shall be printed by the public printer and in readiness for distribution on the first meeting of Congress.

SEC. 38. *And be it further enacted*, That the right to alter, amend, and extend this act and the provisions thereof is hereby expressly reserved; but not so as to do injustice to those interested and to be affected thereby.

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